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**United States
Department of Labor
Annual Report for
Fiscal Year 1990**



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United States Department of Labor Annual Report for Fiscal Year 1990



Lynn Martin, Secretary

United States Department of Labor

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 3. Nominee
 4. Appointed 08/06/90
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 6. Vacant 09/28/90
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 11. Appointed 11/06/89
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Executive Summary

Improving the skills and education of American workers and protecting their health and safety were major focuses of Labor Department activities in fiscal year 1990.

Early in the fiscal year Labor Secretary Elizabeth Dole announced a seven-point program to improve the nation's ability to provide workers with the skills industry needs. The program included appointment of a top-level commission to develop workplace competency guidelines, creation of a national advisory board on workplace training, convening of a national conference on easing the transition from school to work for non-college bound youth, improvements in the federal-state employment service system, efforts to foster greater involvement of business and labor groups with the nation's schools, and development of a clearinghouse to promote and exchange ideas and practices that improve the workplace.

To strengthen government efforts to help people find and hold jobs, the Department asked Congress to amend the Job Training Partnership Act to target resources to disadvantaged persons facing the most serious barriers to employment. In a related development, the Department initiated a demonstration program called Youth Opportunity Unlimited that provides grants to train young people in high poverty urban and rural areas.

Secretary Dole emphasized the need for businesses to expand training opportunities for workers already on the payroll and to work closely with schools to improve the education, motivation and job preparation of disadvantaged young people.

Among significant safety initiatives during the fiscal year was issuance of a proposed rule mandating employers to require all employees who use motor vehicles for official business to wear seat belts and those who ride motorcycles to wear helmets. The proposed rule would save almost 700 lives and prevent up to 32,000 lost workday injuries each year, the Department estimated.

Other rule-making activity included final or proposed rules affecting hazardous waste operations, emergency response,

bloodborne diseases, excavation and trenching, and use of personal protection equipment to prevent falls. A major effort to reduce repetitive motion injuries and illnesses got under way with the issuance of guidelines for the red meat industry.

To protect young workers, the Department carried out a series of strike force investigations to enforce regulations prohibiting young people from working too many hours or doing dangerous jobs. The investigations turned up violations in some 3,500 businesses involving more than 25,000 children working illegally and resulted in more than \$5.6 million in penalties. To help assure future compliance, the Department asked Congress to increase penalties substantially for willful, egregious violations of the child labor laws.

Labor-management relations activities were highlighted by settlement of a protracted dispute between the Pittston Coal Company and the United Mine Workers. An agreement enabling long-striking miners to return to their jobs was reached with the help of former Labor Secretary W. J. Usery, who mediated contract negotiations at the request of Secretary Dole. In announcing the settlement, Secretary Dole noted that a key issue in the dispute--pension and welfare benefits-- was a problem with broader implications for the entire coal industry. She appointed a special commission to examine all aspects of this issue and make recommendations for dealing with it.

The economy continued to expand during the fiscal year, but at a slower rate than in previous years. Employment increased by almost 500,000, following a 2 million rise in fiscal 1989. Unemployment increased by 465,000, pushing the jobless rate to 5.7 percent at the end of the year. Once again employment growth was concentrated in service-producing industries, which expanded their payrolls by 2.1 million workers during the year while manufacturing employment declined by about 350,000.

Real gross national product advanced 1.1 percent in fiscal 1990, down from a 2.4 percent rise a year earlier. Driven mostly by higher energy prices, the consumer price index increased by 6.2 percent over the year.

Job Safety and Health

Progress was made on a variety of problems that pose job-related safety or health hazards for workers. The Occupational Safety and Health Administration (OSHA) issued final or proposed rules dealing with such matters as toxic or explosive chemicals, electrical equipment, use of vehicle seat belts, excavation and trenching, bloodborne diseases, exposure to asbestos and smoking on the job by asbestos workers, and protection against falls.

Responding to concern over injuries and illnesses caused by activities that require repetitive motions, OSHA issued guidelines aimed at reducing such problems in the red meatpacking industry. The agency also developed two quarterly bulletins--ErgoFacts and ChemAlert--to help industry deal with particular workplace health problems.

Separate explosions resulting in 40 deaths at Phillips and Arco petrochemical plants in Texas were the subject of intensive OSHA investigations. The agency's findings on the cause of the October 1989 explosion at the Phillips plant in Pasadena, which claimed 23 lives, were submitted to President Bush along with OSHA proposals for preventing similar tragedies in the future.

The 4,500 inspections conducted by OSHA during the fiscal year emphasized quality rather than the number of on-site visits. This approach produced an increase in the number of serious violations found. Six of the largest penalties in OSHA history, ranging from \$1.9 million to \$7.2 million, were levied against employers for flagrant safety and health violations.

With a goal of eliminating mine fatalities by the year 2000, the Mine Safety and Health Administration (MSHA) put a high priority on promoting a concept called job safety analysis. This technique, which calls for miners and supervisors to work together to analyze each step in a hazardous task, has proven effective in reducing injuries in the mining industry.

MSHA began development of a program to focus increased attention on coal mines with a potential for serious fire or explosion. Such mines would be subject to intensive inspections and other stepped-up enforcement actions. A similar initiative

sought to identify mines with an "excessive history of violations" of MSHA rules.

An agency task force continued its efforts to combat illegal coal mining by identifying unregistered mine operations which evade federal safety and health inspections.

Employment Standards

The Employment Standards Administration (ESA) carried out a nationwide series of strike force investigations to strengthen enforcement of child labor regulations. These investigations found almost 26,000 minors working in violation of child labor regulations and resulted in the assessment of over \$8.6 million in penalties against employers. The strike force strategy produced both a sharp increase in penalties and greater employer and public awareness of restrictions on the number of hours minors may work and the types of jobs they may do.

A major education effort was conducted to acquaint employers with the increase in the Federal minimum wage that took effect April 1, and with a new provision in the law permitting inexperienced workers to be paid a training wage below the minimum required under the Fair Labor Standards Act (FLSA).

ESA enforcement actions brought \$126 million in back minimum wages and overtime pay to 404,000 workers. Of the more than 74,000 compliance actions the agency conducted during the year under the FLSA, more than 55,000 stemmed from complaints by workers or concerned citizens. Investigations under the Davis-Bacon Act and other wage laws covering government contractors resulted in employers agreeing to pay \$38 million to some 45,000 workers.

The Office of Federal Contract Compliance (OFCCP) began a major effort to help women and minorities move into upper-level corporate management positions. This "glass ceiling" initiative seeks to change attitudes and policies that create artificial barriers which keep qualified women and minorities from moving into senior management jobs.

OFCCP's policy of seeking negotiated settlements of equal employment opportunity disputes involving government

contractors produced 873 agreements during the year in which contractors committed to more than \$34.5 million in outlays for pay adjustments, training, recruitment or similar purposes. More than \$15 million of this was for back pay awards to some 4,000 women, minorities, persons with disabilities and veterans. A \$3.5 million settlement obtained from Precision Castparts to remedy discrimination against 1,000 women was the second highest in OFCCP history.

Overall, OFCCP completed a record number of compliance actions during fiscal 1990. The agency conducted 6,033 compliance reviews, investigated 1,295 complaints, entered into 2,923 conciliation agreements, and obtained 1,761 letters of commitment from contractors to correct violations.

To encourage voluntary affirmative action and help contractors comply with the law, OFCCP formed 17 new employer liaison groups and provided almost 62,000 hours of technical assistance to firms doing business with the government. The liaison groups enable OFCCP officials and contractors to discuss in a cooperative atmosphere general compliance issues as well as problems involving specific employment situations or industries.

The Office of Workers Compensation Programs (OWCP) completed a test project aimed at facilitating the reemployment of injured Federal workers who have been off the job more than 90 days. Under the project, nurses visited workers who did not appear to be very severely injured but who had not been given a definite date to return to work by their physicians. The program will be expanded in 1991.

OWCP rehabilitation services enabled a record 1,450 permanently disabled Federal employees to return to work during the year. Expanded use of nurses early in the rehabilitation process is credited with helping to make more disabled workers employable.

Fiscal 1990 marked the conclusion of a three-year effort by OWCP to collect money owed to the Black Lung Disability Trust Fund by coal mine operators and their insurers. Overall, more than \$74 million in interim reimbursed benefits and interest was collected. Also essentially completed in 1990 was a

six-year project to review all 116,000 black lung cases to assure that all beneficiaries were being correctly paid.

Employment and Training

The Employment and Training Administration (ETA) continued and expanded its efforts to equip America's workers with the skills they need to keep the nation competitive in an increasingly demanding global economy. Major activities included supporting amendments to the Job Training Partnership Act (JTPA) to concentrate more resources on the most severely disadvantaged job seekers, easing the transition from school to work for students not entering college, strengthening the link between classroom instruction and job requirements, helping dislocated workers, and improving workplace literacy.

The vital connection between the classroom and the workplace was emphasized by establishment in ETA of the Office of Work-Based Learning. Among the new unit's activities were a national conference on school-to-work transition, awarding of \$3.2 million in grants to stimulate innovative school-to-work programs, and creation of a national commission to study and make recommendations on issues such as program accreditation and transferable worker credentials.

The Job Corps continued to revise its educational curricula and vocational training. Academic testing was expanded to better assess the competency of students and place them in appropriate classes. Training in 17 vocational programs was reviewed, updated and pilot tested, bringing to 42 the number of such programs revised since the effort began. Programs will be reviewed every two years to keep them current with industry needs.

Young people in high poverty urban and rural neighborhoods are the focus of a major new effort begun in 1990. Called Youth Opportunity Unlimited, this three-year demonstration project provides comprehensive employment and training services to youth in selected communities. The goals of the project are to improve high school completion and college

attendance rates and to reduce teen pregnancy, crime and drug use.

ETA initiated five new demonstration projects during the year in its ongoing effort to find ways in which the unemployment insurance system can help people drawing jobless pay return to work. Among the ideas being tested are offering jobless pay recipients reemployment bonuses and helping them start their own businesses.

Pension and Welfare Benefits

A record \$139 million was recovered for employee benefit plans in fiscal 1990 as a result of enforcement actions taken by the Pension and Welfare Benefit Administration (PWBA). Of this total, \$121.8 million was recovered through litigation and \$17.5 million through voluntary compliance. A record also was established for the number of criminal investigations referred for prosecution.

PWBA's help was instrumental in obtaining almost \$7 million in benefits for plan participants who sought the agency's assistance after failing on their own to secure payments to which they were entitled.

Regulatory activity included publication of a rule to help guide persons through the process of seeking exemptions for transactions that otherwise would be prohibited by the Employee Retirement Income Security Act (ERISA). Proposed and interim rules were issued on civil penalties for fiduciary violations of ERISA.

Significant policy initiatives included several recommendations for extending pension coverage to more workers and enabling workers to preserve pension benefits when changing employers.

Development and implementation of a major new database, the ERISA Information System, substantially improved the quality, accessibility and timeliness of PWBA's information on employee benefit plan finances and activities.

Other Activities and Initiatives

A new program to help people leaving the military service find

and hold jobs was inaugurated by the Department's Veterans' Employment and Training Service (VETS) in cooperation with the Departments of Defense and Veterans Affairs. Under the program, men and women being discharged from the Armed Forces attend seminars where they are told about job and training opportunities, advised on interview techniques, and given other information to help them succeed in the civilian labor market. The call up of reserve forces due to the Persian Gulf crisis generated a big increase in requests to VETS for technical assistance and information on veterans' reemployment rights.

More than \$1.5 million in embezzled union funds were recovered and more than \$4.2 million in fines imposed by the courts as a result of enforcement actions taken by the Office of Labor-Management Standards (OLMS) under the Labor-Management Reporting and Disclosure Act. The work of OLMS investigators produced a record 205 indictments and other criminal actions during the year and 153 convictions and pre-trial agreements.

The Bureau of Labor-Management Relations and Cooperative Programs expanded its electronic storehouse of information on joint labor-management programs and issued an updated printed compilation of this material. The Bureau provided training on labor-management cooperation to an increased number of local trainers and expanded its ability to assist organizations interested in starting or improving cooperative programs.

A computerized service to help employers recruit and retain quality workers was put in operation by the Women's Bureau. The Workforce Quality Clearinghouse makes available via a toll-free telephone number about policies employers have utilized to meet employee needs through flexible benefits, alternative schedules, training, and similar practices and policies. The clearinghouse complements a similar service begun in 1989 to provide information on employer-sponsored child care assistance.

For the second consecutive year the Bureau of Labor Statistics accelerated by two days the monthly release of the

closely watched Consumer Price Index. Steps also were taken to improve information on employment and unemployment, productivity, and occupational safety.

Successful prosecutions stemming from investigations by the Office of the Inspector General resulted in more than \$19 million in recoveries, fines, penalties, restitutions, settlements, cost efficiencies, forfeitures and back taxes.

Poland and Hungary received extensive technical assistance and advice from the Bureau of International Labor Affairs on building a "safety net" for workers adversely affected by the transition to a market economy. Help was given on such topics as employment service systems, unemployment compensation, worker and family counselling, and labor statistics.

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Employment and Training Administration

As the Department of Labor expanded its role in human resources development under the Secretary's Workforce Quality Agenda, the Employment and Training Administration (ETA) had a challenging and active year.

Early in the 1990 fiscal year, Secretary Elizabeth Dole announced her agenda for improving the quality of worker skills. A wide range of ETA initiatives and activities grew out of that basic foundation.

Highlights included sharpening the focus of the Job Training Partnership Act (JTPA) to serve people most at risk of failure in the job market, improving the school-to-work transition (especially for the students not bound for college), expanding programs that link work-based learning with classroom instruction, concentrating on the job and training needs of dislocated workers, and increasing workplace literacy.

Several of these activities were strengthened by the establishment in December 1989 of the Office of Work-Based Learning (OWBL) within ETA. The new office includes Worker Retraining and Adjustment Programs, the Bureau of Apprenticeship and Training (BAT), and the Office of Trade Adjustment Assistance.

ETA activities are reported below by individual program or agency function. For activities that operate on a program year cycle, the discussion covers Program Year (PY) 1989 (July 1, 1989 through June 30, 1990). For those that operate on a fiscal year basis, the discussion covers Fiscal Year 1990 (October 1, 1989 through September 30, 1990).

Job Training Partnership Act Programs

JTPA authorizes the largest system of Federal job training programs. The bulk of JTPA funds are allocated to States and to more than 600 local service delivery areas (SDAs) that administer programs for economically disadvantaged youth and adults and for dislocated workers.

JTPA also authorizes various forms of assistance to other target groups; provides for a program of research, demonstration, and evaluation; and mandates a system of standards to measure the performance of individual program operators.

In FY 1990, ETA began the planning and development of the National Training Institute (NTI), which is designed to train JTPA staff to effectively operate JTPA programs. The NTI incorporated the recommendation of the JTPA Advisory Committee that staff at all levels of the JTPA system increase their occupational capacities.

Adult and Youth Programs

Under Title II-A, JTPA provides block grants to each State to fund training and other employment-related services for adults and youth. Twenty-two percent of a State's II-A funds are reserved for Statewide activities, including coordination with education agencies and services for older workers; the remainder is allocated to SDAs within the State.

In PY 1989, \$1.8 billion were appropriated to serve approximately 1.2 million youth and adults. Over 90 percent of SDA participants served were economically disadvantaged. Greater emphasis is being placed on providing services to those most in need.

Among those served by Title II-A are school dropouts, teenage parents, former substance abusers, welfare recipients, homeless individuals, the long-term unemployed, dislocated workers, and disabled people. Since its beginning in 1983, JTPA has placed more than 2.5 million people in jobs throughout the country.

JTPA training is designed to prepare people for lifelong careers and economic self-sufficiency. Often, those served need more than just skills development; they need vocational counseling, remedial education, literacy instruction, and support services such as housing, health care, and child care.

More than 60 percent of those who come through the JTPA system are placed in jobs when they leave, and many young people go back to school after the completing training.

Summer Youth Program

The Summer Youth Employment and Training Program (JTPA Title II-B) provides job opportunities, training, and educational services for economically disadvantaged youth ages 14 to 21. The program emphasizes remedial education in math and reading for youth performing below grade level. For the 1990 summer program, \$709.4 million were appropriated to serve about 600,000 participants.

Dislocated Worker Programs

The beginning of PY 1989 marked the start of program operations and activities under the Economic Dislocation and Worker Adjustment Assistance (EDWAA) Act, a 1988 act amending Title III of JTPA. The legislatively mandated milestones for implementation have already been achieved-- publication of regulations, reconstitution of the State Job Training Coordinating Councils, establishment of Dislocated Worker Units (DWUs), designation of sub-State areas and grantees, and development and submission of State plans.

During July through September of PY 1989, ETA regional offices conducted monthly observations on EDWAA start-up in all States and in selected sub-State areas. This monitoring effort was primarily designed to provide timely notice to Federal, State and local officials of major problems with EDWAA implementation.

During the remainder of PY 1989, ETA conducted follow-up assessments of State and sub-State progress. These assessments focused on nine significant features of EDWAA implementation: Dislocated Worker Units, expeditious sub-State response, State financial management systems, sub-State programs, a 50-percent training requirement, organized labor involvement, cooperative relationships and linkages, State-administered programs, and State management.

The assessments identified problems with EDWAA implementation, devised potential solutions, and determined which topical areas required short-term, targeted technical assistance and which areas required a system-wide approach. The overall picture was one of slow but steady progress, with

programs in 15 States meeting all of their achievement levels and with nearly all of the remaining programs operating at or above expectations in most areas.

Under Title III programs, which are funded by grants to the States and provide participants with various forms of training and retraining, EDWAA formula activities in PY 1989 received over \$226 million. There were more than 150,000 participants, usually workers who had been or were about to be laid off from their jobs because of mass layoffs or plant closings, technological change, foreign competition, corporate restructuring, or other economic factors.

The Governors retained up to 40 percent of EDWAA funds for State administration; rapid response; and Statewide, industry-wide or regional projects. At least 60 percent of each State's allotment was distributed to sub-State areas for retraining and basic readjustment services.

A total of \$53,857,741 was awarded for 72 EDWAA projects in 34 States from the Secretary of Labor's reserve account. These projects included services for workers displaced from a variety of industries, including automobile manufacturing, food processing, coal mining, and various other manufacturing and service industries.

Job Corps

During PY 1989, the Job Corps, authorized by JTPA Title IV, served approximately 62,500 new enrollees, with an average enrollment of 38,100 at any time during the period. The year's expenditures totaled \$728.8 million.

The program provides training, education, and support services, primarily in residential centers, for disadvantaged youth ages 16 through 22. Of the 107 centers, 68 had some nonresidential enrollees, with a national nonresidential enrollment of nine percent.

PY 1989 was the second year of a three-year project by Job Corps to revise its educational curricula. This year, there was a continued expansion of academic competencies. These competencies were more sharply defined by matching objectives to placement and mastery tests and to the selection of

instructional materials. Course guides were completed for all curricula areas.

Work progressed in the development of a computer-managed instructional system to guide, correct and record student progress. In this way, teachers will have more time for individualized student instruction.

As part of the effort to modernize and improve vocational training programs offered at Job Corps centers, curricula for an additional 17 vocational areas were reviewed, updated, and pilot-tested in PY 1989, bringing the number of improved curricula to 42. In order to keep these curricula current with industry needs, a systematic process has been developed so that each trade will be reviewed and upgraded every two years.

The National Occupational Competency Testing Institute has completed competency testing for 16 vocational areas to independently validate the vocational competencies of Job Corps students. The results indicate that these students compare favorably to graduates of State vocational technical institutes, and that Job Corps curricula include the competencies employers expect. Testing of approximately 16 more vocational areas will be conducted over the next two years.

Progress continued on Job Corps II, a series of pilot and demonstration projects to increase program effectiveness. Many current efforts focused on establishing linkages with other Federal, State, and local programs.

There are linkages, for example, with State or local agencies to provide child-care services for enrollees; with school systems to designate centers as alternative high schools, thus enabling them to obtain additional staff, equipment, and curricula assistance; and with social services to enroll homeless youth and youth from foster homes.

Three Job Corps centers completed a pilot test of enhanced orientation programs to: (1) determine whether an increase of in-depth services during a student's first 30 days increased his or her understanding and commitment to the program, (2) better identify youths who cannot benefit from Job Corps and should be referred to other types of programs, and (3) improve overall retention and completion rates.

Results indicate that while the additional support provided to students was beneficial, the four-week orientation program appeared to be too long and did not significantly change retention rates.

Several Job Corps II efforts were extended for an additional year in order to test new concepts. For example, two urban nonresidential centers--one in New Orleans and the other in Philadelphia--are undergoing a formal evaluation to determine: (1) Whether there are youth who, for various reasons such as family responsibilities, cannot leave home but could benefit from Job Corps, and (2) Whether youths could benefit from training in a nonresidential environment. In addition, a small nonresidential program was established in Portland, OR, through a partnership among Job Corps, the Portland Public Schools, and the local SDA of JTPA. The effectiveness of this program will be evaluated.

Another Job Corps II project--Extended Training Day--was continued. It was modified so that assessment can be made of student attendance rates; local child-care arrangements; and use of caseworkers to assist students with housing, public assistance, and similar support programs. A final report on the project was to be issued in PY 1990.

Native American Programs

JTPA Title IV programs for Native Americans are funded through grants to Indian tribes, other Native American communities, and various related organizations. In PY 1989, these programs spent \$58 million to provide approximately 31,000 participants with classroom and on-the-job training, work experience, community-service employment, and supportive services. The programs focused on placement of training participants in the private sector.

Grantees' performance continued to improve in PY 1989. ETA officials made approximately 85 on-site visits to monitor performance, and participated in a national grantee-sponsored meeting to provide technical assistance. Additionally, a training and technical assistance contractor conducted three training seminars for grantees and made 12 on-site visits.

Migrant and Seasonal Farmworker Programs

Title IV of JTPA also authorizes Migrant and Seasonal Farmworker (MSFW) programs. In PY 1989 these programs served, at a total cost of \$66 million, more than 55,000 people. Some 9,800 participants received classroom training; 9,000 were enrolled in on-the-job training; and 1,600 were placed in work-experience positions.

ETA continued its emphasis on working with farmworker youths, and there were about 10,600 participants ages 14 to 21 in employment and training activities. As in previous years, grantees were instructed to refer eligible youth to Job Corps centers. During this program year, grantees were also able to refer youths to programs for high school equivalency and to College Assistant Migrant Programs.

A new initiative in PY 1989 was in the area of agricultural upgrades. Grantees were requested to place about 10 percent of their clients in agricultural or agriculturally-related jobs offering upgraded, unsubsidized, full-time employment.

Projects for Persons with Disabilities

Under JTPA Title IV, ETA provided seven national organizations with a total of \$3.6 million in PY 1989 to administer training and employment services for people with disabilities. These organizations served more than 7,000 individuals with such disabling conditions as mental retardation, epilepsy, blindness, and other physical and emotional problems.

Pilot and Demonstration Programs

A major new effort undertaken in PY 1989 was the Youth Opportunity Unlimited (YOU) demonstration program, aimed at young people in high poverty urban neighborhoods and rural counties. The demonstration was operated by six cities and one State over a three-year period. During that time, each project will receive up to \$2.7 million in YOU grants.

The seven projects will provide intensive, comprehensive training and employment services to youths in the target communities. The primary objective is to achieve substantial gains in the rates of high school completion, school attendance,

and college entrance, and to achieve significant declines in teen pregnancy, crime, and drug use.

Under another demonstration, ETA funds continued to help seven cities establish alternative high schools modeled after High School Redirection, Brooklyn, NY. Its intensive reading program has been highly successful in improving students' reading skills.

During PY 1989, ETA renewed funding for 18 of 23 pilot and demonstration projects initially funded during the previous program year to increase coordination in addressing the needs of such selected target groups as youth offenders, displaced homemakers, and workers lacking basic workplace skills. The renewal allowed for refinement of promising efforts from the previous year.

Specific objectives of these projects were: (1) To detail major problems in developing linkages among agencies; (2) To overcome barriers to coordination among JTPA and other human services programs; and (3) To identify approaches for effective coordination.

JTPA Performance Standards

JTPA requires the Secretary of Labor to establish a system of performance standards to gauge how well JTPA is meeting the following Departmental objectives: (1) Targeting services to a more at-risk population, (2) Improving services that lead to long-term employability and increased earnings, (3) Placing greater emphasis on acquisition of basic skills that will lead to advancement in employment, education or training; and (4) Promoting programs that will address the multiple needs of at-risk populations in a coordinated fashion.

During PY 1989, performance standards for Title II-A were refined to emphasize post-program results for adults and skills acquisition for youth and adults. Measures for PY 1990 to 1991 were streamlined to six core measures with accompanying numerical standards: Adult Follow-Up Employment Rate (62 percent), Adult Weekly Earnings at Follow-Up (\$204), Follow-Up Welfare Employment Rate (51 percent), Follow-Up Welfare Weekly Earnings (\$182), Youth Entered Employment Rate (45

percent), and Youth Employability Enhancement Rate (33 percent).

The adult and welfare follow-up measures indicate how a program contributes to a participant's long-term employability and economic self-sufficiency as these capacities are measured 13 weeks after a participant leaves the program. The youth measures reinforce ETA's emphasis on employment and employability skills by focusing on the acquisition of educational and vocational credentials and by redefining the Youth Entered Employment Rate to exclude from computation those youths who terminate from dropout prevention or recovery programs and do not obtain jobs.

For Title III, Governors are required to set an entered employment rate standard (64 percent), and they are encouraged to set an average wage at placement goal.

Governors continue to have the authority to modify national performance levels for both Title II-A and Title III to account for local conditions that could affect SDA performance, such as economic factors, characteristics of the population served, and kinds of services provided. ETA annually updates an adjustment methodology that helps Governors set standards. The methodology prevents standards from penalizing SDAs for serving the hard-to-serve.

Title IV Indian and Native American (INA) grantees are required to meet three performance measures: entered employment rate, positive termination rate, and cost per positive termination. In addition, they have an optional community-benefit project measure.

Title IV MSFW grantees are required to meet two performance measures: entered employment rate and cost per entered employment.

ETA updated the performance standards for both the INA and MSFW grantees in PY 1989. These new standards helped grantees with program planning and assessment of end-of-the-year performance.

Job Training for the Homeless

The Stewart B. McKinney Homeless Assistance Act of 1987

authorizes the Secretary of Labor to award demonstration grants for job training for the homeless. During the first three quarters of FY 1990, approximately 7,000 homeless people were served by the Job Training for the Homeless Demonstration Program.

The purpose of the demonstration program was to identify innovative and replicable job-related services for the homeless, and thus to provide direction for national policy. Participants received such assistance as job training, remedial education, basic skills instruction, job search and support services. Projects are operated by State and local agencies, and services are coordinated with related community programs.

During FY 1990 and the first half of FY 1991, ETA provided \$17 million to support this program. It served a number of subgroups within the homeless population, including substance abusers, the chronically mentally ill, families with children, youth, single men and women, and Native Americans.

Older Worker Program

More than 100,000 low-income elderly persons received part-time jobs through the \$343 million authorized for the Senior Community Service Employment Program (SCSEP) in PY 1989. Twenty-two percent of the participants moved from subsidized to unsubsidized positions, many in the private sector and some at the community agencies where participants worked while enrolled in SCSEP.

To expand the program's outreach to the increasing number of older workers in the general population, ETA encouraged SCSEP operators (national nonprofit organizations and State governments) to link their community-service job and training opportunities with JTPA and similar programs.

Work-Based Learning Programs

During FY 1990, the Office of Work-Based Learning (OWBL), through its training policy unit, was involved in several key workforce quality initiatives. In May 1990, the Department of Labor and the Department of Education cosponsored a national conference on linking schools and workplaces. "The School-to-

Work Connection," a report on the conference, is available.

In September 1990, the OWBL awarded six seed-money grants, totaling \$3.2 million, to test innovative approaches to the school-to-work transition. The two-year grants were intensive and wide-ranging, and helped revolutionize how America looks at learning and how the nation relates workplace learning to classroom instruction.

The National Advisory Commission on Work-Based Learning was established and given a two-year charter to explore the expansion of structured work-based learning. The Commission, which included leaders from business, education, labor, and nonprofit organizations, looked into such measures as the accrediting of programs and the awarding of transferable worker credentials.

In June 1990, the Assistant Secretary of Labor for Employment and Training and a delegation of U.S. officials were invited to Japan to observe successful employment and training programs and practices. The Department reciprocated by planning for two November 1990 events: A tour of training sites in the United States with a Japanese delegation, and an employment and training symposium in Washington, D.C., cosponsored by the Department and the Japanese Ministry of Labor and the ILO Association of Japan, Inc.

Apprenticeship

In November 1989, publication by BAT of the policy report, "Work-Based Learning: Training America's Workers," marked the culmination of Apprenticeship 2000. This two-year effort explored the role of the apprenticeship concept of training in America's future, and the report's recommendations contributed significantly to development of the Secretary of Labor's workforce-quality initiatives.

In June, BAT hosted the 48th annual conference of the American Apprenticeship Round Table. Its 40 members, who represent major corporations across the United States, meet each year to discuss training needs and plans and to exchange information.

In 1977 the Department of Labor published regulations

Title 29 CFR Part 29, Labor Standards for Registration of Apprenticeship Programs. These regulations set out standards, policies and procedures relating to: (1) registration, cancellation and deregistration of apprenticeship programs and agreements by BAT, (2) recognition of a State Apprenticeship Council or Agency (SAC) as the appropriate entity for registering local apprenticeship programs for certain Federal purposes, and (3) SAC derecognition.

On August 24, 1990, the Department published in the *Federal Register* a proposed revision to Title 29 CFR Part 29. This proposal simplified the regulations in response to suggestions received during the Apprenticeship 2000 initiative. The public comment period for the proposal ran through November 23, 1990.

The Federal Committee on Apprenticeship (FCA), reconstituted as part of the Labor Department's expansion of apprenticeship concepts and programs, met on September 27-28, 1990, in Washington, D.C.

The FCA has eight members representing labor, eight representing employers, and nine representing the public. In addition, there are three ex-officio members--the current president of the National Association of State and Territorial Apprenticeship Directors, a representative of the U.S. Department of Education, and the Assistant Secretary of Labor for Employment and Training.

Discussions were held on the future role of apprenticeship; the proposed revisions to the apprenticeship regulations; broadening the apprenticeship concept to all industries; recruiting more women into apprenticeship and overcoming barriers to expansion; linking apprenticeship to schools and to other government training programs; and examining government's role in an expanded apprenticeship system.

Currently there are 824 apprenticeable occupations. Ten were added during FY 1990: aviation support equipment repairer (military use only); aviation safety equipment technician (military use only); gas utility worker; manager, food service; post-office clerk (military use only); health care sanitary technician; tree trimmer; bartender; fuel system maintenance

worker; and ship propeller finisher.

During the fiscal year, more than 365,000 apprentices were trained in approximately 44,000 civilian apprenticeship programs registered with BAT or State apprenticeship agencies. There were approximately 20,000 (7.2 percent) female and 60,000 (21.8 percent) minority apprentices registered at the end of the year.

Also during the year, nearly 50,000 uniformed military apprentices received training in 17 programs. More than 40,000 uniformed apprentices were in training at the end of the year, of which 36 percent were minorities and 6.4 percent were females.

More than 1,700 federally serviced apprenticeship programs were reviewed for EEO compliance, and 2,150 on-site quality reviews were conducted. Finally, program sponsors were provided with technical assistance as part of a continuing national effort to improve related instruction.

Trade Adjustment Assistance Program

The Trade Adjustment Assistance Program (TAA) has been considerably modified since it was originally authorized by the Trade Act of 1974. The most recent amendments to the Trade Act were contained in the Omnibus Trade and Competitiveness Act of 1988, which extended the program to 1993 and made significant changes in coverage and requirements.

The major coverage changes include: (1) expansion of eligibility to workers with independent exploration and drilling firms in the oil and gas industry and (2) stipulation that if, within two years of the date of enactment of the amendments, an import fee were imposed to fund TAA programs, then workers or firms providing essential goods or services to directly affected firms within three years of the date of enactment would be eligible.

Also under the amendments, all workers otherwise eligible as of November 21, 1988, must have completed or be enrolled in a training program as a condition for receipt of Trade Readjustment Allowances (TRAs), unless this provision is waived under specified conditions. According to the provision, which replaced the job-search requirement in the 1985

amendments, training costs are a worker entitlement and remedial education can be approved as a training activity.

The amendments also: determine eligibility on the basis of a worker's most recent separation from employment; authorize TRA payments during scheduled breaks in training; specify procedures for OJT payments; permit the commingling of training funds; provide benefit information to workers; and require that the TAA program be coordinated with other dislocated worker programs.

In FY 1990, \$57.6 million were allocated to the States for TAA benefits (training, job search allowances, and relocation allowances), compared with \$62.7 million in FY 1989, when 15,200 workers entered training, nearly 1,000 were relocated, and approximately 900 received job-search assistance. TRA payments totaling \$125.4 million were made to 23,677 workers in FY 1989.

Employment Service

During PY 1989, ETA launched actions to meet the challenge of three of the Secretary of Labor's initiatives to help the Employment Service (ES) increase labor-market efficiency: (1) finding different ways to serve employers and applicants because of the changing demographics of the 1990s workforce; (2) assessment of applicant skills and aptitudes that is more extensive and equitable for all groups; and (3) greater recognition of and attention to the training and retraining needs of ES applicants.

In PY 1989, the Secretary of Labor launched an initiative to refocus the ES to meet the labor-market challenges of the new century. Key business, labor, and government leaders were consulted on this initiative, public comment was solicited, and a proposal was under consideration for submission to Congress in early 1991.

USES is also engaged in preparing a fifth edition of the *Dictionary of Occupational Titles*, a widely used and highly esteemed resource. An advisory panel, appointed by the Secretary of Labor, explored all facets of this task, including usage, content needs, techniques for analyzing occupations, and

methods of providing data.

Issuance of the new edition of the *Dictionary of Occupational Titles* is still several years away, although a revised 4th edition was expected to come out in 1991. Work on both fronts progressed on schedule in PY 1989, and pilot runs of new materials have proven to be successful.

The USES proposed a major research effort concerning its needs-assessment tool, the General Aptitude Test Battery (GATB), in response to a Department of Justice challenge that GATB use might be unfair to many minority groups, and that the validity generalization approach to compensating scores for minorities could be inequitable. This effort will take two years. There was a public comment period to determine the impact of not using the test for screening and referral purposes during that time.

The ES continued to serve the immediate needs of employers and jobseekers in PY 1989. It registered 18.4 million applicants and provided some reportable service to 7.2 million of them. More than 3.7 million applicants were placed in jobs or obtained employment after receiving services. Labor-exchange expenditures totaled \$739.9 million.

Forums were held in 1988 and 1989 so that national, State, and local policymakers and planners could share information on successful and innovative approaches developed by State employment security agencies (SESAs). Selected speeches from these forums were published under the title, "Innovation in the Nation's Employment Service," and were widely distributed.

USES made some noteworthy efforts during PY 1989 to reach out to the employer community. For example, it provided a combined grant (ETA and the Assistant Secretary for Veterans Employment and Training) to the Employers National Job Service Committee. As an employer organization, the Committee tells employers about the advantages of using the public employment service to hire and train disadvantaged workers, at-risk youth, veterans, and disabled persons. In addition, it worked to improve coordination with JTPA and its Private Industry Councils.

The participation of SESAs in the Interstate Job Bank (IJB)

during FY 1990 showed increases and improvements. Twenty-two States merge the IJB weekly or update it daily into their on-line computerized job listings so that it is readily available in all their local employment offices with terminals.

The number of job listings provided by States for the IJB increased another 20 percent. This listing of hard-to-fill jobs reaches all other local offices weekly on microfiche for use by interviewers and in some instances by applicants themselves.

The MultiState Job Bank Project (MSJB), using support from the IJB Center, is testing the feasibility of self-directed labor exchanges between jobseekers and employers. In phase I, the States' MSJB coordinators improved the user friendliness of the self-search computer program, known as Automated Labor Exchange, or ALEX.

The project has already proven to be successful in expanding services to veterans in selected locations. Information on the project's progress is being shared with interested States, regions, and professional associations.

Under the Immigration and Nationality Act, the Department of Labor, through USES, is responsible for certifying that the use of certain categories of foreign workers will not adversely affect the job opportunities, wages, and working conditions of U. S. workers. (Such certification is required by the Immigration and Naturalization Service as a condition for issuance of visas.) In FY 1990, 49,952 applications for permanent and temporary labor certifications for nonagricultural jobs were approved, and 34,564 temporary agricultural jobs were certified to be filled by nonimmigrant foreign workers.

In October 1988, Congress passed the Family Support Act, the heart of which of which is the Job Opportunities and Basic Skills training (JOBS) program. JOBS, which began in July 1989, is administered by the Department of Health and Human Services, with linkages to JTPA and other human services programs.

States had until October 1, 1990, to implement JOBS, and at that time authority for the ETA-administered Work Incentive (WIN) program terminated. Previously, WIN had been the only

Federal employment and training program which required welfare clients to register with State employment services for training or job placement as a condition for receiving benefits.

At the end of FY 1990, nearly 319,000 clients were registered in WIN regular and demonstration programs in 19 States. During the year, WIN staff placed approximately 99,000 registrants into unsubsidized jobs, some 62 percent of whom earned enough to leave welfare.

Unemployment Compensation

Calendar year 1989 was marked by a slight upturn in unemployment compensation claims, after several years of declining totals. This trend continued in 1990.

In calendar year 1989, 17.2 million initial claims were filed with State employment security agencies, resulting in the payment of \$14.3 billion in benefits for 98.3 million weeks of unemployment. The average weekly payment for total unemployment was approximately \$152. State unemployment tax revenues totaled \$17 billion.

Despite increasing outlays, State trust funds continued to grow in FY 1990, reaching an aggregate balance of \$38.9 billion as of June 30, 1990. Measured as a percentage of total covered wages, this balance is higher than at any time since 1973. Only one State still has an outstanding loan from the Federal loan account.

ETA continued quality unemployment insurance (UI) initiatives during FY 1990 to improve the integrity of the program and to test alternative and innovative ways to accelerate and smooth the transition to reemployment for UI recipients.

The Department of Labor has one overriding goal for the Quality Control (QC) program: To ensure that the UI program operates with the highest degree of accuracy and timeliness attainable within the administrative resources available.

In calendar years 1988 and 1989, the weighted average overpayment error rate for the UI system dropped from 10.1 to 8.8 percent. The UI benefit payment accuracy rates for this period were provided to the general public with the release of

individual State reports, and the Department of Labor distributed a compendium of State results to more than 100 interested parties.

The national UI system took several steps to help State UI agencies analyze and display the more extensive data that they have available: (1) It provided them with appropriate software; (2) It formed a cooperative agreement with a quality control training center operated by the State of Minnesota to provide training in statistical theory, report-generating techniques, and graphics preparation; and (3) It encouraged States to conduct program-improvement studies to identify problems, pinpoint corrective action, and test alternatives before Statewide implementation. Half of the States have undertaken such studies.

Also during this reporting period, UI actively pursued revenue development, and continued to refine the design of Revenue Quality Control. Because of the complexity of UI tax systems, four design modules were developed.

The first module, which was developed and pretested in FY 1990, examined existing SESA internal controls and made information available as to which controls result in the most timely and accurate tax operations for all States. The three remaining modules, Benefit Charging, Employer Compliance, and Report Validation, were still in preliminary design stages during the 1990 fiscal year.

In the mid-1980's, the Department of Labor initiated a series of demonstration projects designed to use the UI system to hasten the return to work of UI recipients who were dislocated workers. These demonstrations had three primary objectives: (1) To identify UI claimants, primarily dislocated workers, who needed reemployment services early in their spells of unemployment; (2) To test various reemployment services to help these claimants be reemployed (whether in wage/salary employment or in self-employment); and (3) To improve linkages between UI and other service providers--including ES, JTPA, and economic development agencies--for creation of effective delivery systems for dislocated workers.

In FY 1990, five demonstration projects were initiated and

one--the New Jersey UI Reemployment Demonstration Project--was completed. The New Jersey project tested three comprehensive packages of reemployment services for dislocated UI recipients: Job search assistance (JSA) only, JSA plus training or relocation assistance, and JSA plus a "reemployment bonus"--a cash incentive for early reemployment.

The final report on the New Jersey Project showed that: (1) Using UI claims data, the project was successful in identifying UI claimants who were dislocated workers and in referring these workers to services by their fifth week of unemployment; (2) All three reemployment-service packages were cost-effective; and (3) A closely coordinated early intervention strategy linking UI, ES, and JTPA programs was effective in accelerating reemployment of the targeted claimants.

Of the four additional reemployment demonstration projects underway, two were testing variations of the reemployment bonus option first tested in New Jersey, and the other projects were testing the viability of self-employment as a reemployment option for UI recipients interested in starting their own businesses. These two sets of demonstration projects are described below.

Reemployment Bonus Demonstration Projects

Based on the results of the New Jersey demonstration project and an earlier project conducted by the State of Illinois, the reemployment bonus appeared to be a promising option for accelerating reemployment of UI claimants. The Department of Labor therefore proceeded with two additional demonstration projects testing variations of that option.

The States of Pennsylvania and Washington were selected as sites. In order to determine the optimum bonus offer, the projects were designed to test differing bonus amounts and differing periods of time in which to qualify for a bonus.

Statistical results on these projects showed that in Washington State, the project offered reemployment bonuses to 14,000 UI claimants and paid 1,815 bonuses, an average of \$567 per payment. Results of the Pennsylvania project showed that bonuses were offered to 10,060 claimants and that 773 claimants

received bonuses, an average of \$926 per payment. The final reports on these projects are scheduled for 1991.

Self-Employment Demonstration Projects

The Department of Labor explored self-employment as a reemployment option for some portion of the UI recipient population. The option was based on self-employment programs for unemployed workers that were first tried in Western Europe.

Two demonstration projects provided eligible UI claimants interested in self-employment with a package of assistance designed to help them start their own businesses (usually "microbusinesses"--sole proprietorships with up to only a few employees). Washington State was the initial site selected, with Massachusetts chosen as the second site under the provisions of the Omnibus Budget Reconciliation Act of 1987.

Both projects provided eligible UI claimants interested in self-employment with a combination of self-employment allowance payments and business-development services, including start-up training, counseling, and technical assistance.

The Washington Self-Employment Demonstration (SEED) project, which began operations at six locations in February 1990, provided participants with lump-sum payments of seed capital equal to their remaining UI entitlements. As of September 1990, 747 participants had been selected for the project, and 331 had received lump-sum payments to start their own businesses--an average of \$4,221 per participant. Project operations were to continue until early 1991.

The Massachusetts Self-Employment Demonstration project began operations at seven locations in May 1990. It provided participants with biweekly payments equal to their regular UI benefits, thus giving them an income stream while they are planning and establishing their own businesses.

As of September 1990, 85 participants had been enrolled in the project and were receiving biweekly self-employment allowance payments averaging \$261 per payment. Project operations were expected to continue for three years, with a three-to-four month participant enrollment period each year.

Interim reports on these projects are scheduled for the end of 1990.

Research and Evaluation

Several studies of worker displacement and worker income were prominent among research studies completed in PY 1989.

In one study of worker displacement, the impact of advance notice of permanent layoffs and plant closings on the post-layoff work experiences and wages of displaced workers was examined to learn how much this notice helped in easing worker transitions. Another study looked at the labor-market mobility of displaced workers to discover how much industrial and occupational change they experienced, and to examine the geographic mobility of displaced vs. non-displaced workers. A third study explored the employment and unemployment patterns of displaced workers and the impact of these patterns on income over a 25-year period.

Three studies of worker income levels were completed during this period. The topics included: (1) The relative income of women and the potential of high-wage, high-growth jobs for increasing their income, (2) Characteristics of low-wage workers by industry, occupation, ethnicity, gender, and family status (studied over a 10-year period to allow examination of spells of unemployment and low wages, and to examine the demographic characteristics associated with relatively permanent low-wage status), and (3) America's ability to generate well-paying jobs for persons with limited education, and the downward shift in intergenerational income as a result of the increased educational requirements of available jobs and the shift from manufacturing to service-sector jobs.

A critical study of fairness in employment testing using validity generalization batteries and within-group scoring of the General Aptitude Test Battery (GATB) in State employment services was completed. The study, conducted by the National Academy of Sciences, was undertaken because of concern about the ethnicity-conscious norms used to assure referral of higher-scoring individuals from minority groups. The study report concluded that the referral rules were equitable, but expressed

reservations concerning the security and currency of the GATB materials used.

Four evaluation projects were also completed during the 12-month period: (1) Case studies of exemplary JTPA Private Industry Councils, (2) An assessment of coordination among various components of JTPA and related programs at the State and local levels, (3) A study of the quality of training provided under JTPA Title II-A, and (4) A study of Title II-A staffing and staff training at the State, SDA, and service-provider levels.

ETA initiated three new evaluation studies--one on EDWAA implementation, another on the TAA program, and the third on the effectiveness of JTPA Title II-A services for youth. The agency also launched a new project to demonstrate the effectiveness of wage supplements as a form of trade adjustment assistance.

ETA continued its implementation in 15 SDAs of a major social experiment that measures the net impact of JTPA Title II-A services on participants. During PY 1989, program operators completed enrollment of all persons who took part in the study and evaluators began follow-up surveys. The six-year study, which began in PY 1987, focused on the labor-market experience of persons served by JTPA and included random selection of participants as part of its experimental design.

The agency also continued to fund the Job Training Quarterly Survey, which monitors characteristics, program experience, and other data pertaining to JTPA participants on an ongoing basis.

Policy and Planning

Enhancing the skills of the American workforce continued to be the major emphasis of ETA's policy and planning agenda during PY 1989.

To this end, ETA staff worked with Congressional members and staff on legislation designed to improve the delivery of services to hard-to-serve youth and adults. Among other features, the proposed amendments would target JTPA programs to those most in need or at-risk, enhance the quality of JTPA services, strengthen accountability, and promote

coordination of human resources programs serving the disadvantaged. The legislation, based on essential principles of an Administration proposal, would also establish a year-round youth program of education, training, and work experience. No final action was taken on the amendments by the 101st Congress.

ETA also assisted in implementing the Secretary of Labor's initiatives to improve workforce quality. For example, the agency did staff work in connection with the establishment of the 31-member Secretary's Commission on Achieving Necessary Skills (SCANS). SCANS was established in April 1990 to develop voluntary national competency guidelines for basic skills keyed to the requirements of the workplace.

In addition, ETA did developmental work for the Secretary's Labor Investing for Tomorrow (LIFT) Awards, and provided support to the Office of the Assistant Secretary for Policy in implementing the awards program. The LIFT awards recognize outstanding projects in the areas of business/school partnerships, other aspects of the school-to-work transition, employee training, and enhancement of employee worklife.

Two publications specifically concerned with raising skill levels were issued during PY 1989.

"Enhancing Literacy for Jobs and Productivity" provides practical guidance to States and organizations for developing coordinated Statewide policies to raise workforce-literacy levels. The report is based on the experience of nine States that took part in an ETA-funded policy academy--a structured combination of seminars, on-site technical assistance, and individual State activities.

"Working Capital: Coordinated Human Investment Directions for the 90's," analyzes the coordination of JTPA with other human resources programs and provides recommendations for the future of such coordination. The document was the final product of the JTPA Advisory Committee appointed by the Secretary of Labor in 1988, and its recommendations, which were contained in an earlier report, provided the foundation for the Administration's proposal to amend JTPA.

The Family Support Act requires States to coordinate their

JOB programs with other human resources delivery systems, including JTPA. During PY 1989, ETA staff worked closely with staff at the Departments of Health and Human Services and Education on a wide range of initiatives designed to help realize the coordination requirements.

In Fall 1989, the Secretaries of Labor, HHS, and Education participated in a national training conference on JOB implementation. In addition, they signed an interagency agreement committing their respective agencies to joint funding and responsibility for all technical assistance activities related to the JOB program.

ETA officials also participated in numerous Congressional oversight and legislative hearings on such subjects as the school-to-work transition, the older workforce and intergenerational child care, workplace literacy, the role of human resources in economic security, education and training for a competitive workforce, job training for the homeless, youth employment and training issues, and unemployment compensation.

Federal Oversight

ETA continued compliance monitoring of JTPA, the Wagner-Peyser Act (the public employment service), and Trade Act activities.

For JTPA activities, system reviews covered State monitoring, administrative and financial systems, and the Summer Youth Employment and Training Program. In addition, there were implementation/status reviews of EDWAA and of the national reserve projects for dislocated workers.

For Wagner-Peyser programs, the monitoring consisted primarily of compliance reviews of ES cost-reimbursable grants, and the financial and administrative systems of State employment security agencies. Trade adjustment assistance programs operating under the Trade Act were monitored by technical assistance activities, follow-up of previous reviews, and enhanced training based on new TAA program directives.

This degree of oversight resulted in more than 475 State-level on-site reviews and 685 sub-State level reviews.

Financial and Administrative Management

During FY 1990, ETA made final determinations of 458 audits and similar reports, resolving a total of \$22,473,803 in questioned costs. As a result, debts totalling \$19,564,845 were established for collection action.

Appeals for Judicial or Secretarial review were filed on 30 of the FY 1990 final determinations, for a total of 127 cases currently under appeal at the close of the fiscal year. Resolution of 827 auditors' administrative recommendations occurred during FY 1990, and many administrative recommendations that were carried forward from prior years were implemented by the grantees and contractors.

With respect to internal accounting for terminated grants and contracts, ETA closed the financial accounts of 275 ETA grants and contracts during the fiscal year. These activities facilitated the recovery of \$2,361,001.

On-site program and fiscal reviews were conducted independently of program-office activities on a sample of 37 national office programs. These reviews focused on program operations and financial systems.

Issues of concern included misclassification of costs, lack of cost-allocation plans, inadequate documentation for verification of participant eligibility, and failure to follow government travel regulations. The grantees involved were notified of the findings and were requested to take corrective action.

During FY 1990, the Division of Special Review and Internal Control conducted 16 internal control reviews, surveys and management reviews to carry out ETA responsibilities under the Federal Managers' Financial Integrity Act. In addition, a total of 1,018 preaward clearance reviews were completed on potential ETA contractors/grantees; and 16 investigations, either internal or external, were conducted to determine compliance with applicable legislative and regulatory requirements.

Approximately 409 incidents of alleged fraud, abuse, or other criminal activity were reported through ETA Incident Reports or the General Accounting Office/Office of Inspector General hotline system during FY 1990. Where appropriate,

corrective action was initiated.

During FY 1990, ETA collected approximately \$10.8 million in cash and UI Trust Fund transfers for debts established through the audit resolution and closeout process. Approximately 25 percent of these collections in FY 1990 related to JTPA program debts.

Also in FY 1990, the agency referred to the Department of Justice 24 delinquent debt cases which the agency had been unsuccessful in collecting through the administrative process. Approximately \$2.6 million in outstanding receivables are associated with the 24 cases.

Public Affairs Support

ETA's Office of Public Affairs supported the agency's workforce quality initiatives. Highlights included working with the JTPA system to promote the Secretary's Summer Jobs for Youth Program and focusing attention on individuals served by JTPA through publication of "Portraits of Progress."

The Public Affairs Office also worked closely with the Office of Work-Based Learning to assist with media coverage of the May 1990 national conference on improving the school-to-work transition, and to publish "The School-to-Work Connection," a report on that conference, and "Work-Based Learning: Training America's Workers," a guide to work-based learning concepts.

Another major undertaking involved assisting the Job Corps with planning and developing its major recruitment campaign to attract more youth, particularly young women, to Job Corps. Public Affairs worked closely with the program in designing the campaign theme and advising on products and strategies. The Office also worked in partnership with the National Association of Home Builders to develop a Job Corps campaign attracting young women into non-traditional jobs.

Finally, the Public Affairs Office joined with other organizations, both in and out of government, to promote and disseminate information in areas of high priority to the Labor Department or the Employment and Training Administration. A prime example of this effort was in the area of literacy,

notably ETA's working relationship with the American Broadcasting Company and the Public Broadcasting System on Project Literacy U.S. (PLUS).

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Bureau of Labor Statistics

In Fiscal Year 1990, the Bureau of Labor Statistics (BLS) continued to improve the quality of the national economic indicators and other essential statistics on employment, employment projections, unemployment, prices, compensation, working conditions, productivity, and technology. During the year, the Bureau:

- Began long-term initiatives to assure continued qualitative improvements in employment and unemployment statistics by establishing a decade-long Quality Improvement Program and by reaching agreement with executives from State cooperative agencies that dedication to quality improvement will be the continuing theme of the 1990s.

- Completed the second year of an important 3-year nationwide initiative to improve the statistical basis for establishment surveys.

- Began publishing data using industry codes from the new Standard Industrial Classification manual.

- Provided several foreign countries with consultation on the U.S. statistical system and the Bureau's survey procedures and techniques.

- Continued a long-term revision process which will substantially improve International Price data, expanded new methods of seasonal adjustment for Producer Price Indexes, and further accelerated the monthly release schedule for the Consumer Price Index.

- Added several new Employment Cost Index wage and compensation series, completed the rebasing of all series in the Employment Cost Index, and began integration of the Employment Cost Index and Employee Benefits surveys.

- Completed expansion of the Area Wage Survey program.

- Continued work on a comprehensive redesign of the occupational injury and illness statistical system.

- Published a study of the family in international perspective, issued three major bulletins that examine the impact of technological change in selected industries, completed

labor productivity measures for additional industries, and updated productivity measures for foreign countries.

- Issued revised projections of the labor force, industry employment, and occupational employment to the Year 2000.
- Used the new Collection Procedures Research Laboratory to improve survey procedures concerned with comprehension, recall, judgment, and communication.

Employment and Unemployment Statistics

The Bureau took two major steps toward establishing a decade-long program of commitment to a continuous process of upgrading the accuracy, relevance, timeliness, and efficiency of Employment and Unemployment Statistics programs by:

- Implementing a Quality Improvement Program. With assistance from the Federal Quality Institute, a council of senior executives and managers in the Office of Employment and Unemployment Statistics developed a strategy to improve the quality of work in all office programs and guided the implementation of specific quality improvement projects.
- Conducting a labor market information conference with executives from the State agencies that operate the Bureau's cooperative programs. The conference focused on the theme of developing quality improvement as the challenge for the 1990s. This initiative received an enthusiastic response at the conference and will be continually developed throughout the decade.

While pursuing these new challenges, the Bureau completed several other major projects in the area of labor force statistics. With publication of Employment and Wages in October 1989, the Bureau became the first Federal statistical agency to publish data using the new industry codes from the 1987 Standard Industrial Classification manual. By the end of the fiscal year, BLS had completed converting to the new classification codes some 27,000 monthly data series in the Current Employment Statistics program. This project involved the regeneration of nearly 3.6 million data items to maintain historical

comparability. The Bureau also completed the second year of the 3-year Business Establishment List improvement project, designed to develop a consistent establishment-level sampling frame suitable for use by the entire Federal statistical system.

Other significant accomplishments by the Bureau's Employment and Unemployment Statistics staff follow:

- Completed a draft specifying major requirements for a new Current Population Survey data processing system.
- Introduced the Universe Data Base, an expanded sampling frame for virtually all establishment surveys, containing updated identification data for more than 6 million units.
- Won the Lawrence R. Klein Award for a *Monthly Labor Review* article on the working poor.
- Developed software systems for introducing Touchtone and Voice Recognition data collection procedures.
- Completed several special and pilot surveys--nonwage cash payments, occupational wage data, and substance abuse programs--and advanced the development of others, including employee turnover, job openings, and employer-provided training.

Prices and Living Conditions

The Bureau continued efforts to improve the quality, timeliness, and analysis of price information about the United States economy. In addition, BLS provided statistical consulting to Poland as part of the Secretary's program of technical assistance to that country.

After accelerating the monthly publication schedule for the Consumer Price Index (CPI) release by 2 days in 1989, the Bureau gained another 2 days in its monthly publication schedule in 1990. In recognition of the CPI program's focus on timeliness and improved data user services, the President's Council on Management awarded the program its Management Excellence Award.

The Producer Price Index program expanded the use of new seasonal adjustment methods into new areas, such as automobiles. The program also completed a revision whereby

all industry indexes now are based on the 1987 Standard Industrial Classification framework.

The International Price program entered the second year of its first major revision. In 1990, the Bureau reached one of the major objectives of the revision by introducing a new sample design. The revision is scheduled for completion in 1992.

The Bureau's Consumer Expenditure Survey staff completed forms design and limited testing for a new Diary Survey questionnaire. BLS plans to test the new questionnaire with 20 percent of the Diary survey sample in an effort to simplify the questionnaire's use by respondents and improve expenditure estimates.

Compensation and Working Conditions

The Employment Cost Index (ECI) rebased all series to a June 1989=100 base. This change made it possible to publish index numbers (in addition to the percent changes already available) for all ECI series, including the many that have been established subsequent to 1981, such as hospitals and health services. In addition, the Bureau prepared a report analyzing seasonality in ECI indexes and began publishing seasonally adjusted ECI data for selected series. The Bureau also began joint data collection for the integrated ECI and Employee Benefits Survey (EBS) program and published the first combined survey data--for employee benefits in small establishments.

Analysis of ECI data appeared in a Monthly Labor Review article, "Measuring Union-Nonunion Earnings Differences." The ECI program added several new wage and compensation series, including three major occupational groups in State and local governments: professional specialty and technical; executive, administrative, and managerial; and administrative support, including clerical. The Bureau also published new measures of benefit cost change for civilian workers and State and local governments and made substantial progress on developing a new interactive data entry system for employee benefits. The new system should substantially improve the productivity and quality of ECI data.

The Bureau improved the methods and scope of several other compensation surveys by:

- **Publishing results of a first-time survey on white-collar pay in goods-producing industries.**
- **Redefining procedures for coordinating data collection activities for the white-collar pay survey with other wage surveys.**
- **Continuing developmental work for the Bureau's new, broad-based survey of white-collar pay and benefits.**
- **Completing activities to convert the Area Wage Survey program from 70 to 90 areas.**

The Bureau published a variety of information on collective bargaining and industrial relations, including data on the size of major collective bargaining settlements, major work stoppages, and labor organization membership. The statistics on major collective bargaining settlements included a new measure of compensation cost changes which incorporates lump-sum payments and reflects the timing of wage and benefit changes. In response to a directive from the Secretary of Labor, Bureau staff prepared a special analysis of collective bargaining agreement provisions dealing with alcohol and drug abuse.

In cooperation with the States of Texas and Colorado, the Bureau successfully tested a census approach to counting and summarizing the characteristics of all fatal occupational injuries. To ensure accuracy, survey staff gathered and cross-checked information using death certificates, workers' compensation reports, and other administrative records. On a broader front, the comprehensive redesign of the occupational injury and illness statistical system saw substantial progress in testing and selecting the most appropriate survey forms, procedures, and outputs. The redesigned system will feature uniform information on characteristics of injuries and illnesses and demographics of affected workers.

The Bureau published a comprehensive bulletin providing nationwide results of the latest Annual Survey of Occupational Injuries and Illnesses. Using data from the Annual Survey and

from a Supplementary Data System based on State workers' compensation records, BLS developed statistics for most States and territories. Bureau staff also prepared several reports and articles focusing on specific work hazards, such as chemical and heat burns, back injuries in nursing homes, and falls in roofing.

Productivity and Technology

Interest in BLS productivity and costs measures continued to grow as the public became increasingly concerned with the competitiveness of the United States economy. Productivity measures are widely regarded as significant indicators of U.S. economic progress and of the ability of domestic producers to compete abroad. The Bureau continued to refine and extend its published measures to assist in the understanding of these economic trends.

Additional industries for which BLS published labor productivity measures were: photographic equipment and supplies; scrap and waste materials; and rubber and plastic hose and belting. The Bureau now issues a total of 174 separate productivity measures in the manufacturing, mining, transportation, trade, communications, and service sectors of the economy.

The Bureau also made progress in measuring productivity in the Government sector by updating measures for the Federal Government to Fiscal Year 1989. These measures currently include 22 years of historical data for 28 functional groupings of Federal agencies, representing 69 percent of the Federal civilian work force. In addition, BLS updated measures for several State and local government activities.

Relying on data collected in a special annual survey, the Bureau improved the labor productivity measurement process by using hours at work instead of hours paid as the measure of labor inputs for major sector productivity series. The Bureau also made substantial progress in the measurement and interpretation of multifactor productivity trends by extending through 1986 the multifactor measures for 2-digit manufacturing groups. In addition, BLS updated to 1987 the multifactor productivity measures at the individual industry level.

A multi-year project was culminated in the publication of a BLS bulletin, *The Impact of Research and Development on Productivity Growth*. During the year, the Bureau also focused on the indirect effects of research and development spending on industries which benefit from the technological progress embodied in the goods and services they purchase as inputs.

In the international area, BLS updated trends in manufacturing labor productivity and unit labor costs for 12 industrial countries and in manufacturing unit labor costs for Korea and Taiwan. The Bureau also updated the measures of comparative levels of hourly compensation costs for production workers in 34 countries or areas and 40 manufacturing industries, as well as the series on international comparisons of labor force, employment, and unemployment in 10 industrial countries. These measures provide insights into the changing competitive position of the United States.

In response to continued public interest, the Bureau assessed the employment implications of automation and other technological changes. Bureau staff prepared preliminary reports appraising the impact of major technological changes on productivity, employment, and occupational requirements over the next 10 years for the household appliances and metalworking machinery industries. The Bureau also published three major bulletins on the impact of technological change in selected industries, including a bulletin on the insurance industry which presents both survey and case study results.

Employment Projections

The Bureau published a series of bulletins dealing with revised projections of the labor force, industry employment, and occupational employment to the Year 2000 for the use of education planners, Government officials, guidance counselors, and individuals planning their careers. These bulletins included the 1990-91 edition of the *Occupational Outlook Handbook*, the 1990 edition of *Occupational Projections and Training Data*, and *Outlook 2000*.

Analytical efforts focused on procedures for improving data on labor force separations and occupational staffing patterns as

well as development of data to reflect changes necessitated by the 1987 economic censuses and the 1987 *Standard Industrial Classification Manual* revisions.

The *Occupational Outlook Quarterly* featured articles on the job outlook for college graduates to the Year 2000 and a detailed analysis of the kinds of jobs held a year after graduation by college graduates in 20 major fields. Other articles examined how long workers stay in an occupation or with an employer and how occupational staffing patterns within industries are expected to change in the decade ahead. A *Monthly Labor Review* article discussed the effects of nonwage attributes of jobs on the perceptions of job quality.

Technology

The Bureau provided Local Area Network (LAN) users with production quality, high-speed access to the mainframe computer services of a private sector service center. Users now have capabilities for error-free transfers, multiple user sessions, and concurrent access to personal computer services.

BLS negotiated a new contract to provide LAN service to the Bureau's eight regional offices. This new contract, which is modeled on and supplements the National Office LAN Services Contract, will provide the level of support needed to sustain volume production activities on the interconnected LANs.

The Bureau developed a graphical data analysis system for use in the Current Employment Statistics program. This system runs on a network of microcomputers and displays related establishment data as points on a two-dimensional graph, along with statistical edit parameters which allow industry analysts to identify data trends and relationships at a glance. The system also allows analysts to select exceptional data points for closer review.

BLS awarded a contract to acquire microcomputers based on the Intel 80386 computer chip. The new machines will upgrade the current computer base and enable BLS to move to more advanced microcomputer technology.

Collection Procedures Research Laboratory

The Bureau reached its long-term goal of establishing a cognitive laboratory. The laboratory developed procedures to improve responses to surveys by increasing respondent comprehension and eliminating terms research found ambiguous. Research also identified appropriate cues to facilitate respondent recall of required information and the different techniques used by respondents in answering questions. Revised forms which accommodate these factors and make survey language less formal have increased the accuracy of responses and enhanced communication between respondents and interviewers.

Publications and Information Services

The Society for Technical Communication presented its top book award to the Bureau's 1988-89 *Occupational Outlook Handbook*. The *Handbook* was 1 of 498 entries--including many from major corporations--in the Society's 1990 International Technical Publications Competition.

The *Monthly Labor Review* marked its 75th year of continuous publication with a number of special features, including a special issue examining changes in the family over the past three-quarters of a century.

The Bureau enhanced its inquiries operation by making available to the public an extensive series of recorded telephone messages on current economic data and information sources.

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Occupational Safety and Health Administration

The Occupational Safety and Health Administration (OSHA) made major contributions to the improvement of workplace safety and health in FY 1990, issuing six final and nine proposed rules in the areas of safety and health. The rules addressed a wide range of worker safety and health issues that included extending the protection of employees who work closely with electrical equipment; protecting employees from exposure to hazards of toxic or explosive chemicals; and expanding the ban on workplace smoking by workers exposed to asbestos.

OSHA also made strides in the area of ergonomics. A Red Meatpacking Special Emphasis Program was developed in response to concerns about ergonomics hazards, along with new guidelines for the red meat industry. OSHA also developed a one-page bulletin entitled "ErgoFacts." The information in this bulletin is based on actual OSHA inspections and consultations. The bulletin is issued quarterly, and focuses on common, ergonomic workplace problems. It is designed to help employers develop their own solutions, by examining actual ergonomic problems that others have faced and their subsequent solutions.

In addition, OSHA developed the first issue of "ChemAlert," another quarterly bulletin that highlights chemical workplace problems and solutions.

Other accomplishments by OSHA in FY 1990 included developing a lockout/tagout directive to provide guidance in interpreting and complying with the OSHA standard on control of hazardous energy, and preparing a special "Report to the President on the Phillips 66 Company Houston Chemical Complex Explosion and Fire."

OSHA also was instrumental in providing technical assistance to various state programs and in restructuring state programs for greater efficiency. In addition, the agency expanded and enhanced its training and volunteer federal-state

efforts and provided engineering support for a number of investigations of major accidents, enforcement activities, and major outreach and training activities.

Safety Standards

In FY 1990, the Directorate of Safety Standards issued a total of three final and five proposed rules. These rules either revised or reorganized existing standards, enhanced worker protection, and prescribed additional procedures and provisions to assure a safer and more healthful workplace. A brief summary of each rule follows:

Final Rules:

1. On October 31, 1989, OSHA published a final rule revising the existing excavation standards (29 CFR Part 1926.650). These revisions enhance worker protection in areas such as trenching and give employers flexibility in tailoring protective measures, such as sloping and shoring, to meet worksite conditions. The revised rule provides a consistent method for classifying types of soil and includes several appendices that graphically illustrate the new requirements.

2. On April 11, 1990, OSHA published a final rule on welding (29 CFR Part 1910.251), which clarifies and reformats the existing standard; no changes were made in the substance, scope, or application of the standard.

3. On August 6, 1990, OSHA published a final rule for electrical safety-related work practices (29 CFR Part 1910.331). The rule extends protection to workers who come in close contact with electrical equipment parts or circuits and complements the existing OSHA rules on electrical installations. The rule requires training in safe work practices and protective equipment and/or devices, when applicable.

Proposed Rules

1. On January 26, 1990, OSHA published proposed rules to develop procedures for accrediting hazardous waste operation training programs (29 CFR Part 1910.120). The training programs cover government-mandated, clean-up operations at

uncontrolled hazardous waste sites, and treatment, storage, and disposal operations implemented at sites under the Resource Conservation and Recovery Act of 1976. The rules were proposed in response to a mandate under the Superfund Amendments and supplement OSHA's existing standards for these workplace operations.

2. On April 10, 1990, OSHA issued proposals on two standards, which included new provisions for personal fall protection equipment (29 CFR 1910.21). The two proposed rules are interrelated with respect to fall protection, and focus on workplace hazards that can result in slips, trips, or falls through floor openings or off the edges of work areas such as roofs, floors, catwalks, scaffolds, ladders, and stairways.

3. On July 12, 1990, OSHA proposed standards for motor vehicle safety to address the protection of employee occupants (29 CFR 1910.139). The proposed standards contain requirements that employees be trained in the safe operation of motor vehicles; that employees on official business use seat belts in vehicles equipped with them; and that employees operating motorcycles be required to wear helmets while on duty.

4. On July 17, 1990, OSHA issued a proposed standard on chemical process safety management, which would protect employees from exposure to the hazards of toxic, highly reactive, flammable, or explosive chemicals (29 CFR Part 1910.119). The proposed standard is intended to prevent workplace catastrophes or minimize the consequences of workplace accidents that involve fires, explosives and/or releases of dangerous substances and covers manufacturers of chemicals and allied products, explosives, and pyrotechnics, as well as petroleum refineries.

Health Standards

The significant activities and accomplishments of the Directorate of Health Standards in FY 1990 were equally instrumental in satisfying OSHA's mission of assuring a safe and healthful work environment. Its seven major rulemaking activities include three final rules and four proposals, as summarized below.

Final Rules

1. On December 20, 1989, OSHA published a final rule on occupational exposure to asbestos in general industry and in construction (29 CFR Parts 1910.100 and 1926.58) in response to the 1989 remand by the Court of Appeals for the District of Columbia Circuit. The rule removed a ban on the spraying of asbestos-containing materials, clarified monitoring requirements for construction employees; and explained that the agency would clarify the definition of small-scale, short-duration operations through further rulemaking.

2. On February 5, 1990, OSHA published another rule on asbestos in response to the Court remand. This rule included expanding the ban on workplace smoking by workers exposed to asbestos; adding training requirements that included the availability of smoking control programs; explaining how and why OSHA's respiratory requirements will result in reduced risk below that at the permissible exposure limit (PEL); and requiring that workers in or contiguous to regulated areas be aware of and be trained to comprehend the content of required warning signs and labels.

3. OSHA published a final rule on occupational exposures to hazardous chemicals in laboratories (29 CFR Part 1910.1450), on January 31, 1990, which requires continued compliance with PELs and with a written chemical hygiene plan developed by the employer. The flexibility of the plan allows employers to establish work practices and procedures to their laboratories that will ensure the protection of laboratory workers.

Proposed Rules

1. On February 12, 1990, OSHA published a proposal to remove nonasbestiform tremolite, anthophyllite, and actinolite from the scope of its asbestos standards (29 CFR Parts 1910.1001 and 1926.58). Additional data, comments, and analyses were requested to determine how to regulate these nonasbestiform minerals.

2. On July 20, 1990, OSHA published a proposal in response to the Court remand on asbestos (29 CFR Parts 1910.1001 and 1910.58). The proposal recommended reducing

the PEL from 0.2 fibers per cubic centimeter (f/cc) to 0.1 f/cc. It also extended PELs for specific operations, extended reporting and transfer requirements, and extended the competent person requirements, among other things.

3. On August 10, 1990, OSHA published a proposal to reduce occupational exposure to 1,3-Butadiene (29 CFR Part 1910.1051) by reducing the PEL and employing certain methods of exposure control, medical surveillance procedures, and recordkeeping.

4. On Feb. 6, 1990, OSHA published a proposed rule on cadmium (29 CFR Part 1910.1027). An estimated 512,000 workers are exposed to cadmium in industries and occupations such as electroplating, cadmium battery production, maintenance painting, and lead and zinc production.

Compliance and Related Activities

The Directorate of Compliance Programs realized numerous accomplishments in FY 1990. The Office of General Industry Compliance Assistance helped develop a Red Meatpacking Special Emphasis Program in response to concerns about ergonomics hazards in the industry. The Ergonomics Program Management Guidelines for Meatpacking, which evolved from this special emphasis program were announced by Secretary Dole August 30, 1990, and were sent to all sectors of the red meatpacking industry.

Other accomplishments included developing a lockout/tagout directive to provide guidance in interpreting and complying with the OSHA standard on control of hazardous energy; and a Petrochemical Special Emphasis Program, which focuses on comprehensive process safety in petrochemical facilities.

General Industry Compliance also assisted in preparing a special "Report to the President on the Phillips 66 Company Houston Chemical Complex Explosion and Fire."

The Office of 11(c)/405 Programs and the Office of Federal Agency Programs each recorded significant activities in FY 1990. The Office of 11(c)/405 Programs gave additional protection to whistleblowers under Section 211 of the Asbestos Hazard Emergency Response Act, and Section 7 of the International

Safe Container Act. Protection for whistleblowers was also extended under Section 405 of the Surface Transportation Assistance Act to include intrastate motor carrier employees, where previous coverage was only for interstate motor carrier employees. Field assistance provided by the Office of 11(c)/405 included establishing pilot programs and training staff in conducting investigations on whistleblowers' rights.

The Office of Federal Agency Programs examined compliance with OSHA requirements in federal agency workplaces, and conducted federal safety and health program evaluations for the Departments of Army and Energy. The office cohosted the 44th Annual Federal Safety and Health Conference in Chicago, and published in FY 90 for the fiscal years 1988 and 1989 the "Annual Report to the President on Federal Occupational Safety and Health Programs", and the "Occupational Safety and Health Statistics for the Federal Government."

The Office of Health Compliance Assistance counted among its major accomplishments for FY 1990 interagency cooperation with the Environmental Protection Agency (EPA) on Superfund activities. It also developed a revised enforcement directive providing guidance on conducting workplace inspections for bloodborne diseases, and a revised directive on enforcement procedures for the Hazard Communication standard. It assisted the OSHA Training Institute in developing and conducting training for compliance officers, established regional working groups on hazard communication and hazardous waste, and worked on developing compliance policy in areas such as indoor air quality and hearing conservation.

In FY 1990, The Office of Construction and Maritime Compliance Assistance coordinated a task force of field and national office staff to develop four pilot projects for construction inspection scheduling, contributed to the "Crane Safety Task Group Report", and developed an enforcement directive for the excavation standard.

Federal-State Operations

Key agency actions in the Directorate of Federal-State

Operations during FY 1990 included the following:

- Beginning a process to revise the procedures for monitoring and evaluating state programs, based on comments from the Department's Office of the Inspector General.
- Applying for the first time a funding formula to determine how to allocate among states the \$2.5 million funding increase that the Congress added to the FY 1990 state plan grant budget.
- Providing technical assistance to a number of state programs experiencing major accidents or temporary staffing problems.
- Having all states participate in OSHA's Integrated Management Information System, which stores and processes inspection data for both federal OSHA and the states.
- Completing 92,658 state safety and health inspections.

Consultation Services

OSHA funds onsite safety and health consultation services provided by the states, upon request; these services are free to employers and priority attention is given to smaller employers in hazardous industries. These consultation projects exceed compliance requirements and encourage employers to find the best ways to ensure safe and healthful working conditions for their employees. The consultation service is penalty-free and no citations are issued, but employers are required to take immediate action to eliminate worker exposure to imminent dangers and to correct serious hazards within a reasonable time. In FY 1990, 25,000 consultation visits were conducted by the Directorate of Federal-State Operations, resulting in the correction of more than 60,000 serious hazards.

OSHA continuously monitors the effectiveness of the consultation program through a nationwide data management information system that tracks project performance in relation to the principal objectives of the consultation program. In FY 1990, OSHA regional offices were added to this network. Federal-State Operations also revised its Consultation Activity Measures (CAM) reports in FY 1990, which are used to assist the agency in assessing project performance.

In FY 1990, Federal-State Operations also recorded the following accomplishments:

- Published four issues of a one-page, quarterly publication called "Safeworks," which summarizes some of the most beneficial consultation visits and is mailed to more than 3,000 employers.

- Formed a Consultation Data System Users' Group to identify ways to improve the capabilities and operational effectiveness of the data system; formed a State-Federal Task Group on Industrial Hygiene in Consultation to address those industrial hygiene issues in the consultation program that merit special attention.

- Held the Annual Consultation Conference, which had over 100 participants, including state managers from every consultation project nationwide.

Voluntary Programs

Other major voluntary programs include the Voluntary Protection Programs (VPPs), the outreach effort to promote OSHA's Voluntary Safety and Health Program Management Guidelines, and the Model Plant Development Program (MPDP). There were 20 applications made to the VPP in FY 1990, and 10 new VPP approvals.

Training development for the private sector on OSHA's Voluntary Safety and Health Program Management Guidelines was completed in this fiscal year, and 2 pilot sessions of the training were conducted for representatives of 25 companies.

Another major initiative was the creation of the Model Plant Development Program, a voluntary program to develop model sites in industries where good worker safety and health protection programs are few or nonexistent.

Training

OSHA's Office of Training and Education conducted training courses in FY 1990 for approximately 7,000 federal and state compliance officers, state consultants, and safety and health representatives from the federal and private sectors. The Training Office also offered for non-compliance personnel

shortened versions of regular courses on respiratory protection, principles of ergonomics, hazardous materials, and electrical standards.

In conjunction with the Department of Energy (DOE), the Office of Training and Education presented several training programs on occupational safety and health hazard recognition to DOE staff and contractors. The Office also provided for OSHA field offices, state programs, and consultation projects a variety of training materials on the revised excavation standard, the new lockout/tagout standard, the ergonomic management guidelines for the red meat industry, and a 6-hour program developed through the National Audio Visual Center on safety and health hazards in the office environment.

Approximately \$1.24 million was awarded to 22 organizations under the New Directions grant program, which provides funds to nonprofit organizations to develop their staff, skills, and services to become competent job safety and health centers. Another \$340,000 in grants was awarded to four organizations to develop training and education programs on agricultural safety and health hazards, and on hazard communications for small businesses.

Five grants for improving employee understanding of material safety data sheets (MSDSs) were initiated with \$475,000 to test various approaches for assisting employees in understanding the technical language used in these sheets. In FY 1990, second year funding of \$1 million was awarded to 22 organizations to develop or enhance employee assistance programs addressing drug and alcohol abuse in the workplace.

Policy

In FY 1990, the Directorate of Policy improved its coordination efforts with other agencies. Most noteworthy are OSHA's joint activities with EPA relating to safety and health in the hazardous waste industry. Under a cooperative agreement, OSHA and EPA's Assistant Administrator for Solid Waste and Emergency Response conducted joint inspections of approximately 30 hazardous waste incinerator sites. A joint

report of the findings was scheduled to be issued by the two agencies in November.

On April 26, 1990, Secretary Dole submitted a report to President Bush on the causes of the catastrophic explosion on October 23, 1989, at the Phillips 66 Houston Chemical Complex in Pasadena, TX. The explosion, in which 23 workers tragically lost their lives, was one of the worst industrial accidents in the agency's history. In addition to presenting OSHA's investigative findings, the report proposed actions that OSHA should initiate to protect against future accidents and to mitigate the effects of any that might occur.

In December 1989, OSHA initiated a study on the possible safety and health consequences of the use of contractors in the petrochemical industry. The study specifically seeks to answer questions about the extent of contracting-out in the petrochemical industry; the degree of training afforded to contract employees; and the effect of interactions of direct-hire and contract employees on workplace safety and health conditions. A final report is expected by spring 1991.

Technical Support

The Directorate of Technical Support played a major role in the Department's emphasis on ergonomics in FY 1990 by assisting during field inspections of meatpacking plants and helping develop guidelines for the red meat industry.

On February 5, 1990, Technical Support published the first five chapters of the "OSHA Technical Manual." The manual complements the "OSHA Field Operations Manual" and replaces the "Industrial Hygiene Technical Manual." Nine additional chapters are currently being developed.

In FY 1990, Technical Support developed a legislative proposal that would allow the Labor Department to administer a grant program employing older workers to assist in performing technical or administrative duties for OSHA compliance officers. The initial program would involve hiring one skilled worker over 55 years of age within each of OSHA's regions. The grant recipients would be nonprofit organizations under Title V of the Older Americans Act of 1965.

Technical Support also implemented a program to evaluate and recognize qualified safety testing laboratories that meet specific criteria as defined in 29 CFR Part 1910.7, as Nationally Recognized Testing Laboratories. The laboratories will be authorized to approve specific products for use in the workplace.

OSHA recognized four laboratory organizations as Nationally Recognized Testing Laboratories and has received nine new applications for consideration.

The Salt Lake City Analytical Laboratory continues to provide excellent support to compliance programs, with the processing of more than 60,000 samples involving more than 170,000 analyses in FY 1990. The laboratory also serves as a source of goodwill for the Labor Department, with many visitors coming for training or information from foreign countries. In FY 1990, China received technical assistance to set up a laboratory to conduct blood lead analyses.

Technical Support worked closely with agricultural experts in safety and health to develop a proposed program for the Labor Department to address one of the nation's most hazardous occupations--farming. The proposed program is designed to reduce injury and fatality rates among farmers through the implementation of outreach efforts and education.

Plans were made to upgrade and expand the OSHA Computerized Information System (OCIS) during FY 1990, and make it available to all OSHA components and other federal agencies. The future needs of OSHA and its state partners, and those of the federal community require that the system provide quick access to accurate information. This planned expansion will create one of the most complete sources of occupational safety and health information available.

One of the major responsibilities of the Directorate's Office of Occupational Medicine in FY 1990 was the OSHA Medical Examination Program. The Office conducted preemployment examinations and implemented mandatory examinations in Region II. A January 1991 target date was established for examinations to begin in the other nine regions.

Field Programs

In FY 1990, the Directorate of Field Programs coordinated the efforts made by the regions to assist the Department of Energy (DOE) in assessing the overall safety of operations in government-owned, contractor-operated facilities, and conducting joint OSHA/EPA inspections of hazardous waste incinerators. The Field Programs Director and a senior field manager traveled to Poland and Hungary to learn about occupational safety and health programs in Eastern Europe and to provide information to those countries on how to manage them.

The regions referred 21 cases to the Solicitor of Labor for possible criminal prosecution; responded to help protect cleanup crews at major oil spills in Alaska, Huntington Beach, CA, and Galveston, TX; and through major investigations, increased the awareness of ergonomic hazards in the workplace. Several of the largest penalties in the agency's history were proposed in FY 1990 against employers who flagrantly violated safety and health requirements. The dollar amounts ranged from \$1.9 to \$7.2 million.

OSHA inspectors under the guidance of Field Programs conducted over 45,000 federal inspections in FY 1990, devoting 15 hours per safety inspection and 37 hours per health inspection, versus 14 and 34, respectively, in FY 1989, reflecting more thorough inspections. In FY 1990, the emphasis was on the quality of inspections, rather than the number of onsite visits, resulting in a larger number of serious, willful, repeat, and failure-to-abate violations.

Construction and Engineering

In FY 1990, the Office of Construction and Engineering investigated two major petrochemical plant explosions and fires; one at the Phillips Petroleum Chemical Plant in Pasadena, TX, October 23, 1989, which left 23 people dead and approximately 130 people injured; and one at the Arco Chemical Plant in Plainview, TX, July 5, 1990, where there were 17 deaths. The investigation of the Phillips disaster was completed in March 1990; the Arco investigation continued at fiscal year-end.

There were additional investigations by the office in FY 1990. These included investigations of the collapse of a tower crane on November 28, 1989, in San Francisco, resulting in five deaths, and of a steel frame structure on April 25, 1990, in Fredericksburg, VA, leaving a juvenile worker dead. Also investigated were the partial collapse of a steel frame building on May 22, 1990, in Columbus, OH, leaving three workers dead and an accident that occurred on August 14, 1990, at the construction site of the Pittsburgh Midfield Air Terminal, killing one worker, were also investigated. Finally, investigations were conducted of the collapse of the boom on a barge mounted crane in Washington, DC, and of a masonry wall in Brooklyn, NY.

The Office participated in other inspections on elevator shaft safety, wire rope perimeter guarding, and shoring of trenches and excavations. Staff also chaired a task group on crane safety and reported the findings of OSHA's alternatives for improving crane safety on construction sites to the assistant secretary.

In FY 1990, the Office initiated a program to teach the OSHA private-sector construction safety course at locations throughout the country. Office staff also participated in more than 30 trenching and excavation seminars, with the regional training staff reaching over 1,000 people interested in trenching safety.

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Employment Standards Administration

In FY 1990, the Employment Standards Administration (ESA) successfully carried out its basic mission while also launching important initiatives. Three groups--corresponding to ESA's three programs--were particularly visible in such new initiatives: youths who face harmful working conditions (Wage and Hour Division); women and minority executives of Federal contractors facing institutional barriers to higher level positions (Office of Federal Contract Compliance Programs); and potentially employable recipients of federally-administered workers' compensation programs (Office of Workers' Compensation Programs).

Wage and Hour Division

In FY 1990, the Wage and Hour Division sought to firmly and fairly enforce the laws for which it has responsibility. The Division also undertook major new responsibilities for enforcing the 1989 amendments to the Fair Labor Standards Act, including an increase in the hourly Federal minimum wage, from \$3.35 to \$3.80 on April 1, 1990, and to \$4.25 on April 1, 1991. The Division conducted a major educational effort to assure timely employer compliance. It also issued regulations specifying the conditions under which a training wage below the minimum could be paid, as an incentive for employers to hire and train inexperienced workers. The \$1,000 civil money penalty previously authorized for each child labor violation was also extended to willful minimum wage and overtime violations. A description of these and other activities follows:

Puerto Rico

The 1989 Amendments to the FLSA provided that the minimum wage increases applicable to the mainland, from \$3.35 an hour to \$3.80 (effective April 1, 1990) and to \$4.25 (effective April 1, 1991), could be phased in for certain industries over extended periods of time in the Commonwealth of Puerto Rico

depending on the average hourly earnings of employees in those industries. For industries in which the average hourly earnings were equal to or greater than \$4.65, the increases would be the same as those required on the mainland. For industries in which the average hourly earnings were equal to or greater than \$4.00 but less than \$4.65, the minimum wage increase of \$.90 could be phased in through five annual steps ending on April 1, 1994. For industries in which the average hourly earnings were less than \$4.00, the minimum wage increase could be phased in through six annual steps ending on April 1, 1995. For employees of the Commonwealth and of the municipalities whose average hourly wages were below \$4.00, the increase could be phased in through seven steps ending on April 1, 1996.

The legislative history of these provisions of the Amendments indicates that the classification of industries was to be based on the definitions contained in the *Standard Industrial Classification Manual* and that the data were to be collected by the Commonwealth and submitted to the Department for review. On March 30, 1990, the Department published an interim final rule implementing the minimum wage increases in the Commonwealth on an interim basis, and invited public comment. With respect to agriculture, the Department found that only limited employment and hourly earnings information was available for farmworkers from various sources within the Commonwealth government. The Department asked the Commonwealth to conduct an additional survey in agriculture, the results of which formed the basis for a December 1990 amendment of the interim final rule.

The Department will prepare a final rule after careful review of the public comments and the additional material submitted with respect to employment in agriculture.

American Samoa

The Department is responsible for conducting special industry committee hearings biennially to determine minimum wage rates in American Samoa. The special industry committees consist of representatives of business, labor, and the public, and are composed of residents of the mainland and American Samoa.

The Department is also responsible for preparing and presenting a report on economic conditions in American Samoa. The hearing was originally scheduled for June 4, 1990, but was postponed until September 10, 1990, as a result of motions filed on behalf of the American Samoan government and the major employers in American Samoa, citing the effects of a hurricane that struck American Samoa in February 1990, and the late release of the economic report. A second postponement was granted to permit Congress time to amend an apparent oversight in the 1989 FLSA Amendments that would have required increasing the minimum wage rates in American Samoa to the mainland minimum without the submission of substantial documentary evidence, including unabridged profit and loss statements. Following amendment of the statute, the hearing began on January 14, 1991, in Pago Pago, American Samoa.

Immigration Nursing Relief Act

As required by the Immigration Nursing Relief Act of 1989, the Division issued regulations for hospitals and other facilities wishing to temporarily employ foreign nurses who are not immigrants. The law was designed to meet legitimate labor shortages without adversely affecting the income or employment of U.S. citizens seeking employment as registered nurses.

Child Labor Standards

The Wage and Hour Division found nearly 39,800 youths employed in violation of the child labor provisions of the FLSA during FY 1990. During the year, the Division assessed nearly \$8.5 million in child labor civil money penalties against more than 2,650 employers who were found to be illegally employing underage youth, an increase of 204 percent over FY 1989 civil money penalty assessments of nearly \$2.8 million.

One of its major efforts was to develop a strategy of child labor education and enforcement. This strategy included several high-profile, nationwide child labor strike forces (described in greater detail below); education and outreach efforts; procedural revisions to permit higher penalties where appropriate; and stepped-up litigation.

As part of this strategy, the Division helped develop a new basis of cooperation with the Occupational Safety and Health Administration (OSHA) in addressing unsafe or unhealthy working conditions for both children and adults. In April 1990, the Assistant Secretaries of the Employment Standards Administration and the Occupational Safety and Health Administration signed a Memorandum of Understanding (MOU). The agreement provides for the two agencies to exchange information regarding non-compliance, report results of subsequent investigations, conduct training of compliance officers, and evaluate the system for referrals.

All these enforcement efforts have led to greater awareness among youths, educators and employers alike, of the Federal child labor laws.

Operation Child Watch

The Division planned and carried out several coordinated enforcement strike forces called "Operation Child Watch." The purpose of the strike forces was to promote wider compliance with and knowledge of the child labor laws through high-visibility enforcement and education.

The first strike force, in March 1990, utilized more than 500 investigators for two full days. The results for Strike Force One show that 4,093 cases were initiated, disclosing 16,385 underage youth illegally employed and estimated civil money penalties of over \$5.4 million.

The second strike force initiative was a one-day effort involving almost all of the Wage and Hour Division's investigators. This strike force was conducted in June, before school was out in most areas and before the onset of summer employment. The purpose of Strike Force Two was to educate employers, youngsters and their parents about the child labor restrictions before most young workers began summer employment. For Strike Force Two, results show that the Division initiated 2,149 investigations and found 5,877 underage youth illegally employed; estimated civil money penalties were more than \$2 million.

The third strike force was held August 14 and 15 using half

of the Division's investigators nationwide. This strike force was primarily targeted on four industries: garment; construction; the amusement park and recreation industry; and agriculture (where harvest activities were in progress, and in conjunction with the Department's on-going farm labor enforcement activities). The results for Strike Force Three show that the Division initiated 1,334 investigations (207 in agriculture, 266 in the garment industry, 320 in the construction industry, and 463 in the amusement park and recreation industry), in which 2,198 underage youth were found to be illegally employed and estimated civil money penalties were more than \$580,000.

The fourth strike force was a two-pronged initiative that took place during the month of September, comprised of an educational component and an enforcement effort. This strike force activity was planned to coincide with two events, the culmination of the Department's educational effort and the resumption of school around the country. The enforcement activity focused on firms where the Division had previously found violations of the child labor provisions. The preliminary results from Strike Force Four, as of the end of FY 1990, revealed that 1,782 cases were initiated and 1,426 underage youth were found illegally employed; estimated civil money penalties totaled \$593,835.

Overall, the results from all four strike forces are: 9,358 cases initiated; 25,886 underage youth found illegally employed; and estimated civil money penalties exceeded \$8.6 million. The difference between these estimated strike force penalties and the total penalties assessed is because some of the strike force penalties will not be officially recorded until FY 1991.

Proposed Regulations

The Department developed proposed regulatory changes to three hazardous occupations orders for youth under 18 years of age. These proposed changes would eliminate the exemption for school bus drivers, clarify the prohibition against using power-driven meat slicers in restaurants, and clarify the prohibition on youth operating paper balers.

Minimum Wage and Overtime Pay Standards

Timely response to complaints continued to be an important element of the Wage and Hour Division's enforcement strategy during FY 1990. The Division conducted 74,128 compliance actions under the FLSA, of which 55,176 were initiated as a result of complaints from workers or concerned citizens. The percentage of actions completed that were the result of complaints (74.4 percent) decreased by 4 percent from the previous fiscal year, due in large measure to the increase in directed child labor investigations conducted during strike force operations.

Despite the increase in directed enforcement activity, the Division's inventory of complaints increased by less than 1,000, from 21,246 to 22,129. Enforcement activities associated with the Employee Polygraph Protection Act and the Immigration Reform and Control Act requirements for Special and Replenishment Agricultural Workers (SAW/RAW) also contributed to the rise in the inventory.

The FLSA enforcement program disclosed \$25 million due 133,000 workers as a result of minimum wage violations, and \$135 million due 331,000 employees as a result of overtime pay violations. Employers agreed to pay \$18 million in unpaid minimum wages to 120,000 workers, and nearly \$108 million to 284,000 employees due overtime pay for a total of \$126 million.

The difference between the amount of back wages found due employees and the amount that employers agreed to pay reflects, for the most part, sums involved in pending litigation or the failure of certain employers to pay back wages in cases the Department deemed unsuitable for litigation. The FLSA also permits individuals to bring private suits to collect back wages, liquidated damages, attorney's fees, and court costs. The Department's enforcement statistics do not include the back wage amounts recovered in such private suits.

Special Minimum Wages

During FY 1990, the Division issued 16,630 certificates under section 14 of the FLSA, authorizing the employment of approximately 291,765 workers at less than the minimum wage.

Full-time students and workers with disabilities employed in rehabilitation facilities accounted, respectively, for 30 percent and 65 percent of the workers employed under certificates.

During the previous fiscal year, the first petition for a review of wages by an administrative law judge under the provisions of the 1986 Amendments to section 14(c) was filed by workers at the Southwest Lighthouse for the Blind, Lubbock, TX. There were several postponements, including a filing for bankruptcy by the facility, before representatives of the workers and the facility reached an agreement with respect to back wages and future compliance. The agreement was submitted to the bankruptcy court and approved. The petition was not heard because of the agreement between the parties.

Farm Labor Enforcement

■ Migrant and Seasonal Agricultural Worker Protection Act (MSPA). During FY 1990, there were approximately 13,800 farm labor contractor and farm labor contractor employee registrants under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) who employed approximately 460,000 crew members. The Wage and Hour Division conducted 6,000 MSPA compliance actions (including 1,587 housing inspections) during FY 1990 that resulted in civil money penalties totaling almost \$1.55 million assessed against violators. Also, 150 actions were initiated to deny farm labor contractors and farm labor contractor employees certificates of registration.

■ Temporary Nonimmigrant Agricultural Workers (H-2A). The administration of the H-2A program is the responsibility of the United States Employment Services (USES) in the Employment and Training Administration (ETA). However, the Wage and Hour Division is responsible for the enforcement of the contractual obligations of an employer of H-2A workers to such workers and other workers engaged in corresponding employment. The Wage and Hour Division completed 472 compliance actions and civil money penalties of \$344,984 were assessed for violations during FY 1990.

■ Reporting and Employment Requirements for Employers of Certain Workers Employed in Seasonal Agricultural Services.

Employers of certain workers (those legalized under IRCA) employed in seasonal agricultural services are required to record and report information regarding their employment. The data reported enables the Secretaries of Labor and Agriculture to determine whether additional foreign workers may be admitted with legal status each year beginning in FY 1990 (through FY 1993) as replenishment agricultural workers (RAWs). A certificate from the employer showing the number of work-days such worker was employed in seasonal agricultural services may be used by the worker to qualify for permanent residency status. The employer requirements are prescribed by Regulations 29 CFR, Parts 502 and 503, issued pursuant to the INA as amended by IRCA.

RAWs were not admitted in FY 1990 because there was no shortage of seasonal agricultural workers found; and they will not be admitted in FY 1991. There were 2,405 investigations of employers of special agricultural workers in FY 1990 and civil money penalties of \$23,387 were assessed for violations.

■ East Coast Migrant Stream. In addition to other local enforcement throughout the nation, a mobile coordinated enforcement effort, concentrating on employment within the "eastern migrant stream," was initiated in June 1990. The "eastern migrant stream" refers to the annual movement of migrant workers along the eastern seaboard, in which the workers move northward from Florida performing a variety of agricultural tasks. Investigations were timed to coincide with the various crop harvests and the employment of large numbers of migrant harvest workers in these crop harvests.

Investigations were still ongoing at the time this report was prepared; however, by mid-October 1990, 365 investigations under MSPA were initiated as a part of the effort in the eastern migrant stream, and approximately \$121,000 in penalties had been assessed against 82 employers for violations of the MSPA. Concurrent investigations under the FLSA, the reportable worker (SAW/RAW) provisions of the Immigration and Nationality Act (INA), and the H-2A requirements of the INA were also done as a part of this effort. Those investigations resulted in the assessment of civil money penalties totaling

approximately \$7,400 for violations of the child labor provisions of FLSA; \$5,500 for violations of the SAW/RAW reporting and employment requirements of the INA; and \$76,500 for violations of the H-2A standards. In addition, over \$64,000 in unpaid wages were found to be owed farmworkers as a result of these investigations.

Immigration Reform and Control Act of 1986 (IRCA)

During FY 1990, there were 42,223 establishments in which I-9 Forms were inspected nationwide under the Immigration and Nationality Act (INA), as amended by IRCA. All inspection findings were reported to the Immigration and Naturalization Service (INS) for that agency's compliance determination.

Prevailing Wage Laws

During FY 1990, 4,346 investigations were conducted under the Davis-Bacon and Related Acts, the McNamara-O'Hara Service Contract Act, and the Walsh-Healey Public Contracts Act. Back wages totaling \$46.6 million were found due 51,057 workers under the provisions of these laws. Employers agreed to pay \$38 million of these back wage amounts to 44,939 workers. Additional monies will be restored upon completion of administrative hearings or litigation.

Under the Davis-Bacon and Related Acts, 12,300 prevailing wage determinations were issued during FY 1990: 11,579 were issued for specific construction projects and 721 were general wage determinations that apply to more than one construction contract in a given area. Approximately 1,100 modifications of the general wage determinations were issued during the fiscal year.

The Wage and Hour Division issued approximately 5,200 new or revised determinations of prevailing wages and fringe benefits under the McNamara-O'Hara Service Contract Act (SCA) for a variety of job classifications. Wage determinations were issued for approximately 51,750 requests. Improvements continued through increased use of automation for updating wage determinations and increased agency utilization of Blanket Wage Determinations under the SCA.

The Employee Polygraph Protection Act of 1988

During FY 1990, the Wage and Hour Division conducted 43 investigations under the Employee Polygraph Protection Act (EPPA) in response to complaints involving the prohibited use of polygraph/lie detector tests. Nearly all investigations resulted in agreements to comply.

Division of State Standards Programs

The Division of State Standards Programs was incorporated into the Wage and Hour Division during FY 1990.

Expertise was furnished on State labor standards laws and programs that impact on or are affected by Wage and Hour programs or which relate to emerging employment standards issues. Technical advice, assistance and information on numerous labor standards subjects involving State laws and regulations were provided in response to some 2,000 requests from State labor departments and legislatures, management organizations, organized labor, multi-state employers, other Federal agencies, the Congress and others.

The areas of greatest State activity during the year in which there were parallel Federal and State standards were the minimum wage and regulation of child labor. State legislative activity on labor standards subjects was closely monitored. This information was frequently requested for use within the Department and was regularly disseminated to State legislatures and labor departments in assessing their statutes and regulations. This information also was provided to Congress for its use in its deliberations prior to enactment of the Fair Labor Standards Amendments of 1989.

The Division maintained liaison with State labor officials and their organizations, and assisted in the planning and participated as speakers in several regional and national conferences of State officials. In serving as a national clearinghouse of information on State legislative developments, more than 1,000 labor bills and new laws were reviewed and analyzed of the 2,400 bills introduced in legislatures, and comparative information was developed on them. Articles on State labor law trends were prepared for publication in the Bureau of Labor Statistics'

Monthly Labor Review and the Council of State Governments' *Book of the States*.

The Wage and Hour Division continued to promote intergovernmental cooperation and coordination in the administration of overlapping or related programs, either through written agreements or other cooperative activity with State labor agencies. By the end of FY 1990, there were 73 formalized written agreements in effect with 36 States, and numerous additional informal agreements and cooperative arrangements with almost every State. Of particular note was the extensive customized training that the Wage and Hour Division provided for State labor law compliance personnel.

Office of Federal Contract Compliance Programs

The Office of Federal Contract Compliance Programs (OFCCP) continued to enforce the regulations requiring Federal contractors to take affirmative action and to eliminate discrimination from the workplace, and to obtain redress for victims of discrimination.

In FY 1990, OFCCP had a number of significant enforcement accomplishments to make this one of its best years. OFCCP completed a record number of compliance actions: 6,033 compliance reviews and 1,295 complaint investigations. In addition, it obtained one of its highest amounts of financial awards--\$34,728,910 for 6,088 people. Further, OFCCP received its second largest financial settlement in its history--\$3.5 million from Precision Castparts to remedy discrimination against 1,000 women. OFCCP also reinstated two companies, which had been debarred since 1974, when they complied with OFCCP's requirement.

This year also marked a major initiative by OFCCP to eliminate the "glass ceiling," a term used to describe artificial barriers which keep women and minorities from moving up into mid- and upper-level corporate managerial positions. The objective of the "glass ceiling" initiative was to serve as a catalyst for change in attitudes and policies, thereby ensuring women and minorities equal access to senior management positions.

Enforcement Results

During FY 1990, OFCCP completed 6,033 compliance reviews of contractors employing a total of 2,703,899 employees. In addition, OFCCP conducted 1,295 complaint investigations.

The primary enforcement tools for OFCCP continued to be compliance reviews and complaint investigations. Where contractor noncompliance was found, attempts were made to negotiate and conciliate appropriate remedies for the violations discovered. During FY 1990, OFCCP entered into 2,923 conciliation agreements and 1,761 letters of commitment which corrected violations found.

This process is usually successful. However, when it is not, formal enforcement proceedings are initiated and sanctions may be sought, which could result in the removal of contractors from eligibility to compete for Federal contracts until compliance is demonstrated. In FY 1990, 88 recommendations for enforcement action were initiated. Additionally, the Solicitor of Labor filed formal administrative complaints against 21 Federal contractors. One contractor, Associated Grocers of Seattle, WA, was debarred during FY 1990.

In FY 1990, OFCCP negotiated a total of 873 agreements in which contractors committed \$34,728,910 in financial outlays for lump sum or other cash payments for front pay, back pay, salary adjustments, accommodations, recruitment and training costs, and the like. Of this total, \$15,441,951 in back pay awards went to 3,975 women, minorities, persons with disabilities and veterans.

Since 1982, OFCCP has taken positive steps toward effecting voluntary affirmative action among the contractor community. As a result, in FY 1990, 13,295 contractors were provided with 61,879 hours of voluntary technical assistance to better enable them to comply with OFCCP regulations. In addition, 17 new liaison groups were formed in FY 1990. These groups continued to explore general compliance problems and solutions in a cooperative setting. They contribute valuable input to OFCCP on ways to improve the compliance process and address aspects of affirmative action unique to their employment situations or industries. OFCCP, in turn, provides advice,

specific technical assistance and an exchange of information. OFCCP also arranged 2,335 "linkage" agreements between employers and agencies providing worker training or referral services.

During the fiscal year, OFCCP continued to encourage Federal contractors and subcontractors to promote affirmative action and increase employment opportunities for minority groups, women and other groups such as the disabled, certain disabled veterans and Vietnam-era veterans. OFCCP also continued a program to publicly recognize employers for their creativity in initiating such programs by hosting a ceremony to present them Exemplary Voluntary Effort (EVE) Awards. In FY 1990, nine employers received the EVE Award at a ceremony which continued an annual event initiated in 1983. Since inception of this program, OFCCP has recognized 37 contractors with the EVE Award.

Another tradition that was continued in FY 1990 was the annual presentation of the Secretary's Opportunity 2000 Award. This award recognizes an employer who implements programs which take into consideration future workforce challenges while assuring equality of opportunity and full human resource utilization. The Secretary's award, first presented in 1988, is now part of the annual EVE Awards program.

Other significant initiatives in FY 1990 include:

- A major chapter of the Contract Compliance Manual was issued and implemented. Updated pages to other chapters were made, consistent with the revised chapters and other policy changes.

- Guidance to OFCCP field staff continued to be improved, and new enforcement strategies and communication approaches developed.

- Continued pilot tests of compliance reviews designed to identify and remove the institutional barriers to advancement of women and minorities into top levels of corporate management (the Glass Ceiling Initiative).

- The first OFCCP Director's Annual Report highlighting OFCCP's most significant accomplishments was published.

- A revised Quality Audit Assurance Form was developed to evaluate the application of revised compliance manual standards and the new Standard Compliance Review Report to ensure consistent application of established policies and procedures throughout the program.

- Media guidelines were developed to increase public and contractor awareness of OFCCP's enforcement efforts.

- The electronic communication network (ECN) was expanded to include the OFCCP Regional Directors so that the National Director could communicate directly with them through this medium.

- Planning and reporting was revised to reflect more emphasis on enforcement accomplishments.

- Training to new field supervisors was provided and new equal opportunity specialists (EOS) orientation training to national office staff.

OFCCP in its ongoing development of more effective enforcement will continue to:

- Develop courses for the OFCCP Training Academy that provides training to give compliance officers the skills and knowledge needed to better carry out enforcement actions.

- Implement an integrated microcomputer management information system (MMIS) to improve both quality and productivity.

- Provide clear policy and procedural guidance through the completion of the contract compliance manual, and administrative and legal reference binders.

- Develop guidance on how to conduct a glass ceiling compliance review.

- Give further priority to maintaining timeliness in its compliance actions.

Office of Workers' Compensation Programs

In FY 1990, the Office of Workers' Compensation Programs

(OWCP) paid wage loss and medical benefits to compensate for work injury and disability to workers in the three Federal workers' compensation programs it administers: the Federal Employees' Compensation Act (FECA) program for injured Federal Government workers, the Black Lung Benefits Act (Black Lung) program for coal mine workers suffering from pneumoconiosis, and the Longshore and Harbor Workers' Compensation Act (Longshore) program for maritime and certain other workers.

In FY 1990, OWCP took several steps to improve its administration of these Federal workers' compensation statutes. The major focus and most important accomplishment in fiscal year 1990 was the long-planned implementation of the FECA data system for district offices, and the integration of Longshore computer operations into the new system. Other major accomplishments are the completion of OWCP's pilot test of early intervention for reemployment, using registered nurses to visit disabled FECA claimants, and achievement of a record 1,450 rehabilitations of injured Federal workers. A three-year effort to collect interim Black Lung benefits and interest from responsible coal mine operations and their insurers was also completed, and professional audits of longshore employer payment reports were instituted. These and other accomplishments are detailed below.

Federal Data System Installation

OWCP and contractor staff have completed the installation and begun operations on new equipment at 11 of 13 FECA district office sites. New minicomputers were installed, and virtually every staff member has a terminal, enabling each to make benefit payments, issue correspondence, and obtain case information without the assistance of other staff. The new equipment, which replaced a 15-year old system, now houses FECA's benefit payment, medical payment, and case information automated programs and will eventually support management information and data processing for all three ESA agencies. For FECA, it provides the increased capacity to support a series

of long-needed enhancements, including a complete financial accounting system.

The transfer of the Longshore computer support program from aged equipment to the new minicomputers was initiated, a process which will be completed in the next fiscal year. Where Longshore and FECA offices are in the same location, they share equipment. Outlying Longshore offices will be linked by telecommunications equipment to an office in the same region. The program began conversion and has successfully converted four district offices. The remaining district offices, and the automated programs which support the Longshore Special Fund, will be converted to the new equipment by the end of FY 1992.

Federal Employees' Compensation Program

■ **FECA Early Intervention/Nurse Visitation Project.** Building on work pioneered in the Boston regional office, OWCP pilot-tested the concept of home visitation and telephone contact by registered nurses for injured Federal workers whose disability exceeded 180 days. Nurses were recruited from the community and from rehabilitation agencies. Claimants were selected for the project if their physician gave no definite return to work date, but the injury did not appear to be very severe. In one region, a test group of 40 claimants showed a significantly higher rate of return to work and lower costs, including costs of the intervention, than a similar control group. Two other regions had inconclusive results. Interest in the technique as a means of improving medical care and promoting early return to the workplace is high among Federal agency and OWCP personnel. The OWCP intends to expand the program to other cities in FY 1991.

■ **FECA Rehabilitation.** A record 1,450 permanently disabled Federal employees were reemployed by the OWCP rehabilitation program in FY 1991, the highest number on record. The increase resulted from the expanded use of nurses for early intervention in four district offices, and the increased participation of claims examiners as case managers in the reemployment effort.

■ **FECA Periodic Roll Review.** FECA experimented in three district offices with a comprehensive review of selected long-term disability cases, to initiate medical evaluations, payment adjustments, and vocational rehabilitation activity where needed. The special review was inspired in part by the small but steady rise in the number of long-term disability cases being compensated over the last several years.

The percentage of cases in which payment was clearly incorrect was low--between 1 and 2 percent. A larger percentage required medical or rehabilitation intervention. Where cases are terminated because the medical evaluation shows disability to have ceased, an annual saving of between \$16,000 and \$19,000 can be expected.

■ **OWCP/NIOSH Low Back Study.** OWCP and the National Institute of Occupational Safety and Health concluded the third and final year of a joint project to study management of low back injury compensation claims in FECA. The study had three parts: a literature review and report on what constitutes state-of-the-art medical care of low back injuries; an analysis of FECA injury data to see if longer-term disability could be predicted; and the development of a design for a low back study in one or more offices. The analysis of data led the group to conclude that longer-term disability could be predicted based on the intensity and cost of medical care in the early weeks of disability. The profile of good medical care will yield guidelines for claims examiners, and the design for a test of early intervention by a "patient advocate" will be implemented in the coming year.

■ **Case Management Guidelines.** FECA plans to issue guidelines for its most frequently accepted conditions, giving its claims examiners target dates to expect injured workers to be able to return to full duty. While no one will be denied benefits because disability exceeds the expected number of months or weeks, claims examiners are required to review the medical care and information about expected recovery and to initiate appropriate medical intervention, such as a second medical evaluation or contact with the nurse if assigned under OWCP's early intervention program.

■ **Expanded Medical Fee Regulations.** Preliminary regulations expanding the FECA fee schedule to certain procedures supplied by hospitals in an outpatient setting were published on May 16, 1989. The original regulations exempted hospitals from maximum fee limitations, and with the great increase in services provided by hospitals to outpatients, the same service might be subjected to a cap when provided by a physician but not when provided by a hospital. The proposed rule is designed to correct this anomaly. No significant comments were received, and the final regulations are expected to be published shortly. Hospitals which serve FECA injured workers are to comply with the new rules concerning billing and coding practices 120 days after publication of the final rule.

Longshore and Harbor Workers' Compensation Program Payments from the Longshore Special Fund, which relieves employers of some liability for second injuries to previously injured workers, have been rising. The Special Fund may also assume liability after insolvency of an insurer or self-insured employer. The Longshore program initiated several activities to ensure that Special Fund costs are fairly distributed among employers and that reserves of self-insured employers are adequate to cover their future compensation liabilities.

In the first year of funding for contract audits of Longshore Employer Reports of Payments, 24 were performed, 6 times the number expected for the year. Irregularities which required further investigation were found in four audited company reports. An Industry Notice requiring that the Report of Payments filed by each authorized carrier and self-insurer be independently certified as accurate was published on April 16, 1990. The Reports of Payments are used to establish the annual industry assessment which supports the Special Fund, and these measures should improve the equity of the assessment.

Longshore also accomplished a number of audits of reports of outstanding claims and payments, filed by self-insured employers. As a result of these reviews, the reserve

requirements for various self-insured employers were increased by a total of \$13 million.

Coal Mine Workers' Compensation Program

■ **Black Lung Office Communications.** Toll-free 800 phone lines were installed in all nine Black Lung program's district offices, as well as the national office. A toll-free line has been available to the program's medical bill processing facility since 1982. These lines permit direct, cost-free access to the program's offices for its claimants, beneficiaries, medical providers and other constituency groups. Installation of the new phone lines made possible the closing of the least utilized field stations and the discontinuation of relay phone systems which had previously provided service to only a portion of the constituent community. The seven most heavily utilized field stations, located in Virginia and West Virginia, continue to provide services to communities with high concentrations of former miners in West Virginia and Virginia.

■ **Black Lung Medical Cost Monitoring.** The Black Lung program began to use National Drug Codes for pharmaceutical reimbursements beginning in August. This identification system permits closer monitoring of usage and pricing. Notices explaining the new procedures were mailed in July to 20,000 pharmacies and miners who submit drug bills to the program.

■ **Mine Operator Reimbursement to the Black Lung Disability Trust Fund.** FY 1990 saw the successful conclusion of a 3-year effort to collect monies owed to the Black Lung Disability Trust Fund by coal mine operators and their insurers. That effort resulted in the collection of \$74.4 million in reimbursed interim benefits and interest in FY 1988 through FY 1990. In FY 1990, this effort resulted in the completion of collection on 1,489 cases and the referral of another 301 cases to the Office of Administrative Law Judges when agreement could not be reached on the amounts due. Included in that number were 820 aged cases, thus allowing the program to enter FY 1991 with a current inventory of such receivables.

■ **Black Lung Case Review.** In FY 1985, the Black Lung program began a complete review of all accepted cases to

ensure that beneficiaries were being correctly paid. The review was essentially concluded this year, with only a few scattered cases remaining to be addressed. About 116,000 cases were reviewed during the 6-year project.

Office of Policy Management and Analysis

In FY 1990, the Office of Policy Management and Analysis (OPMA) was established to advise the Assistant Secretary and to ensure that policy issues are rigorously analyzed with all policy options identified and the ramifications of each fully explored. OPMA also assisted the Assistant Secretary in the coordination and development of the regulatory and legislative agendas to ensure that the overall agency objectives are met.

There are two major staff entities within OPMA: the Division of Legislative and Regulatory Analysis (DLRA), and the Division of Policy Analysis and Research (DPAR).

Division of Legislative and Regulatory Analysis

During FY 1990, the Division of Legislative and Regulatory Analysis (DLRA) audited numerous Congressional hearings and markups regarding issues of interest to the Assistant Secretary and the operating programs. The DLRA developed Congressional testimony and briefing materials to be used by agency officials testifying before Congressional committees. More than 300 Congressional bills were reviewed by the DLRA for the impact on ESA-administered programs.

The DLRA served as the primary source for coordinating and implementing ESA's entries into the Regulatory Program of the United States Government, and for the entries into the Semiannual Unified Agenda of the Federal Regulations.

Division of Policy Analysis and Research

Since OPMA's inception, the Research Unit of DPAR has worked with the ESA programs and developed a long-term research agenda. It provided technical support in the analysis of the universe affected by certain provisions of the 1989 Fair Labor Standards Act (FLSA) Amendments, assisted in the analysis of policy options being considered by program agencies,

and prepared regulatory impact analyses for the training wage provisions and implementation of the 1989 FLSA amendments in Puerto Rico.

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Mine Safety and Health Administration

The Mine Safety and Health Administration (MSHA) placed special emphasis on programs to help the mining industry achieve "zero fatalities" by the year 2000. These included special emphasis programs in the areas of enforcement of mine safety and health rules, hazard awareness, and miner training in addition to rulemaking activities. Subjects of special attention included efforts to concentrate resources of government, industry and labor on eliminating conditions and acts that can contribute to mine explosions or fires and reducing dangers in certain high-hazard occupations, types of mining or geographical areas. In addition, certain ongoing safety and health programs were strengthened, such as the all-industry campaign against substance abuse in the workplace.

Significant efforts were made during FY 1990 to promote the use of Job Safety Analysis (JSA) throughout the mining industry. Job Safety Analysis, a proven injury reduction technique in which miners and supervisors work closely to analyze each step in a specific hazardous task and develop the safest possible procedure for accomplishing it, has been initiated by a number of states through MSHA's State Grants Program.

During fiscal year 1990, MSHA began developing a prototype program to focus increased attention on coal mines with an identifiable potential for a serious fire or explosion. Such mines could undergo close scrutiny and be subjected to intensive inspections and other stepped-up enforcement actions. MSHA also developed a hazard alert program which included illustrations of the sites of the most recent fatalities that had occurred in order to call attention to the specific types of accidents that were happening at the time. Both the coal and metal and nonmetal sectors implemented the program.

Another important new program was the effort to identify mines with an "excessive history of violations" of MSHA's rules, based on the number of citations for violations a company receives in a specific time period.

A special assistant to the Assistant Secretary was named to work closely with industry, state and labor representatives to reduce accidents in certain mining states which have historically accounted for a disproportionate share of coal mining deaths and disabling injuries.

The initiative to combat illegal coal mining continued through the efforts of a task force whose objective was to identify unregistered coal mining operations which evade Federal safety and health inspections. Task force efforts resulted in a conviction for five violations of the Mine Safety and Health Act in one case and a 12-count indictment in another case during FY 1990.

MSHA has addressed the problem of substance abuse in mining for more than five years, working through a labor-industry-government committee formed to build an awareness of the problem. Many educational materials have been made available to the public, including a substance abuse awareness videotape and a comprehensive manual describing aid that is available and other information.

In FY 1990, findings of a nationwide survey on substance abuse in mining were analyzed and published, providing valuable information on alcohol and drug abuse incidence in the workplace, drug testing practices of companies and other factors. The study used funds appropriated under the Anti-Drug Abuse Act of 1986 and provided to MSHA through the Labor Department.

During the fiscal year, a second substance abuse videotape that included a discussion on the value of employee assistance programs and ways of using them was made available for industry training.

Under a special program, metal and nonmetal mine inspectors made more than 1,100 compliance assistance visits to operations that were opening for the first time, resuming operations, opening new areas, or installing new equipment. Citations were not issued during such visits, but notices of noncompliance were given in a program that received wide industry acceptance.

MSHA coal and metal and nonmetal personnel conducted more than 75,000 safety and health inspections at some 16,000 mines, mills, quarries, and sand and gravel operations in the United States during fiscal year 1990.

The agency assessed mine operators civil penalties for 151,947 violations of the Federal Mine Safety and Health Act and of mandatory safety and health violations. A total of \$17.9 million in penalties was assessed during FY 1990.

Coal mining fatalities decreased during the year to 67 compared with 69 deaths in fiscal year 1989. Injuries at coal mining operations (excluding office workers) also decreased to a rate of 10.51 per 200,000 work-hours during FY 1990 from 10.95 in fiscal year 1989.

In metal and nonmetal mining, 52 fatalities occurred during FY 1990, up from 50 fatalities the previous fiscal year. The rate of all injuries in metal and nonmetal mining decreased to 6.97 per 200,000 work-hours in FY 1990 from 7.75 in FY 1990.

Coal mine safety and health personnel completed MSHA's investigation into the September 1989 coal mine explosion at Pyro Mining Company's William Station Mine in Wheatcroft, KY. The explosion killed 10 miners. A report detailing the circumstances leading up to and the causes of the explosion was issued May 8, 1990.

During FY 1990, the agency tightened its procedures for effectively responding to a mine emergency by establishing an Emergency Information Center and assuring that priorities and procedures were codified and understood by all employees involved in emergency response situations. In another management area, an internal review was made of the agency's actions before and during the Pyro mine disaster, and conclusions and recommendations were issued. Provisions were made for automatically conducting such reviews in the future under certain circumstances. Also, in FY 1990, measures were taken earlier to improve day-to-day accountability of MSHA managers and employees for actions that affect safety and health of miners.

In July, MSHA published a final rule for identifying mines

with a "pattern of violations" of mandatory safety standards that significantly or substantially contribute to safety and health hazards. Other regulatory topics that were under review during FY 1990 included proposals on accident and injury reporting and approval requirements for flame-resistant conveyor belts. Several other important rules involving miners' health issues also were moving through the regulatory process at the end of the fiscal year.

Advances in safety and health technology and mining methods continued in such areas as mine roof control, underground ventilation, and availability of fire-resistant materials. Also further progress was made in field testing a new self-contained self-rescue device (SCSR) for possible use in underground mine emergencies that is compact and light enough to be routinely worn by miners. To date, miners have been trained to wear a filter-type that supplements heavier and bulkier SCSR devices that usually have been stored on the mining section.

Coal Mine Safety and Health

There were 1,969 underground coal mines and 2,676 surface coal mines and facilities under jurisdiction of MSHA's Coal Mine Safety and Health (CMS&H) Division during FY 1990.

The Division conducted 57,390 safety and health inspections and investigations including 8,064 education and training activities at mine sites. It also issued 111,482 citations and orders to coal mine operators and independent contractors working at the mines for violations of health or safety rules. At the request of mine operators and miners' representatives, MSHA supervisors held 1,857 health and safety conferences to discuss the results of mine inspections.

The Coal Division's work force consisted of 1,459 employees in FY 1990, including 734 coal mine inspectors and 95 specialized enforcement and engineering staff. Coal mine safety and health managers, inspectors, technical specialists and education and training specialists operated from 10 district offices, 17 subdistrict offices, and 72 field locations throughout the country.

There were 75 MSHA health and safety training specialists stationed in district and field offices to aid mining companies in their education and training programs.

Sixty-seven coal miners died in accidents on the job during the 1990 fiscal year, down from 69 in FY 1989.

The fatal incidence rate in coal mining for fiscal year 1990 was .05 deaths per 200,000 employee work-hours, the same rate as in the previous fiscal year. The rate for all types of injuries in coal mining was 10.51 injuries per 200,000 work-hours, down from 10.95 injuries in FY 1989.

The initiative to combat illegal coal mining operations continued through a task force in eastern Kentucky. The task force was part of a cooperative enforcement effort with other federal agencies--the Departments of Interior, Treasury, and Justice--as well as agencies of the Commonwealth of Kentucky (Mines and Minerals, Taxation). The objective of the task force is to identify unregistered "wildcat" coal mining operations which evade federal health and safety inspections, and to pursue criminal prosecution of the persons involved where appropriate.

In addition, several illegal mining cases were pursued in the courts. One person was convicted in U.S. District Court in London, KY, of a felony for falsifying records and of five misdemeanor violations of the Federal Mine Safety and Health Act. Eight individuals were charged with various violations of the Mine Act, the Occupational Safety and Health Act, and one child labor violation of the Fair Labor Standards Act. Two defendants were scheduled to go to trial.

MSHA investigated 161 complaints of safety- or health-related discrimination that coal miners filed with MSHA during the fiscal year. MSHA opened 163 investigations into possible "knowing and willful" violations of coal mine safety and health regulations. The Coal Mine Safety and Health Division referred 19 investigations for possible criminal prosecution and 46 cases were referred for individual civil penalty assessments.

MSHA began developing a prototype program to focus increased attention on coal mines with an identifiable potential for a serious fire or explosion. Mines having potential problems would be identified, and, where warranted, possibly be subject to

stepped-up enforcement attention. Such mines also could receive special training and technical assistance from MSHA.

Coal Mine Safety and Health took part in extensive management and employee accountability reviews during fiscal year 1990. These included reviews of 59 offices by MSHA's coal mining district offices and 23 reviews of district, subdistrict, and field offices by headquarters. As a result, improvements were made in a number of requirements, procedures, and guidelines as program weaknesses were identified and corrected.

Metal and Nonmetal Mine Safety and Health

MSHA's Metal and Nonmetal Mine Safety and Health Division continued initiatives to promote mine safety and health at about 350 underground mines and more than 11,000 surface mines, quarries, sand and gravel operations, and mineral mills during the 1990 fiscal year. These operations produce a variety of mineral materials, including gold, silver, zinc, copper, iron, uranium, limestone, potash, and sand and gravel.

As of the end of FY 1990, metal and nonmetal mine inspectors operated from six districts throughout the country, 48 field offices, and seven field stations.

The Metal and Nonmetal Division workforce consisted of 513 employees, 345 of whom are mine inspectors and investigators. Six subdistricts were eliminated in FY 1990 which concluded a reorganization plan first put into effect in mid-1986. Before the reorganization began, there were 12 subdistricts.

There were 52 fatalities at metal and nonmetal operations during FY 1990, up from 50 during the previous fiscal year. The record low number of fatalities in a fiscal year was 49, achieved in FY 1988. The fatal incidence rate for FY 1990 was .02 deaths per 200,000 employee work-hours, the same historically low rate as in FY 1989. The rate for all types of injuries in metal and nonmetal mining in FY 1990 was 6.97, down from 7.75 in FY 1989.

Metal and nonmetal mine inspectors conducted 18,279 complete regular inspections at operations nationwide during

fiscal year 1990. The Division conducted another 284 inspections or investigations in response to complaints about hazards from miners or their representatives.

There were 232 accident investigations made during the 1990 fiscal year, including investigations of all fatal accidents, compared to 259 accident investigations conducted during fiscal year 1989.

For the second consecutive year, special emphasis was given to the auditing of mine operators' and MSHA's records to make sure operators accurately report their accident, injury and employment figures to the agency, and maintain proper records. A total of 2,658 audits were conducted during fiscal year 1990 compared to 2,485 audits during fiscal year 1989.

Metal and nonmetal mine inspectors issued 49,213 compliance orders and citations for violations of safety and health rules during FY 1990. As a result there were 7,769 compliance follow-up inspections to check correction of previously cited violations. These figures are consistent with the previous fiscal year.

Metal and nonmetal mine inspectors and training specialists made 365 visits to mine sites to advise on and evaluate the effectiveness of training and safety programs.

MSHA investigations of discrimination complaints brought by miners decreased from 123 cases in FY 1989 to 59 cases in FY 1990. Special investigations were completed on 52 alleged discrimination cases. There were 196 new cases of possible "knowing and willful" violations of safety or health rules by mine operators filed for investigation in FY 1990. There were 157 investigations completed regarding such violations.

In FY 1990, inspectors made 1,177 compliance assistance visits (CAVs) at mine operators' requests to mines and mills that were opening for the first time, resuming operations, opening new sections or installing new equipment. The CAV program has received wide acceptance in the industry.

No citations are issued by the agency during such visits, but notices of any noncompliance with standards and regulations are issued. Follow-up visits are conducted by inspectors to ensure that deficiencies noted earlier have been corrected. Inspectors

and specialists also made 1,642 visits to mines and mills during the fiscal year for other types of compliance activities.

Developments in the health area in which metal and nonmetal specialists played important roles included public hearings held on proposed rules on mine air quality, chemical substances and respiratory protection, the development of a proposed standard to improve the quality of information miners receive on hazardous substances in the workplace, and the development of a revised noise standard. These three subjects of rulemaking also pertain to coal. Metal and nonmetal personnel, working with the Office of Technical Support, developed and implemented a central supply center, which is operated by Technical Support. This center, which provides sampling supplies to metal and nonmetal personnel, resulted in cost savings, reduced paperwork, and increased efficiency.

Technical Support

During fiscal year 1990, the Office of Technical Support's Approval and Certification Center in Triadelphia, WV, processed 2,598 mining product approval actions, including 549 audits to assure the quality and safety of equipment for use in mines.

Under the Federal Mine Safety and Health Act of 1977, MSHA must collect accident, injury and employment statistics from all mine operators and from independent contractors working at mine sites. These data, which are highly useful in alerting the mining community to accident trends, are processed by computer in order to assimilate and analyze within reasonable timeframes.

About 184,000 accident-injury and employment reports were processed during the fiscal year. This 48 percent increase in the number of forms processed, compared with FY 1989, illustrates the success of a program started in January 1989 to increase data processing efficiency.

Technical Support supplies the MSHA inspectorate with the latest toxicological information on the hazards of exposure to chemicals and gases. This is partly accomplished by maintaining an on-line computer file which cross-references many Material

Safety Data Sheets for chemicals used on mine property. Furthermore, a file is maintained of all noise exposures reported by coal mine inspectors. By analyzing these data, trends can be detected so that limited resources can be directed to the greatest need.

During the fiscal year, a total of 176 engineering design plans for impoundments to contain mine wastes were reviewed. Also, Technical Support personnel conducted 490 in-mine and field investigations during the fiscal year to gauge or examine toxic materials, harmful dust, excessive noise, poisonous gases, electrical hazards, explosives and hoisting problems, and a number of other problems which might affect miner safety or health. Most of the investigations resulted in recommendations for correcting hazardous conditions or environments which could lead to miners' health problems.

MSHA technicians processed more than 82,000 respirable coal dust samples as part of the agency's program to ensure that mine operators comply with dust control standards to reduce the possibility of miners developing Coal Workers' Pneumoconiosis (CWP) or "black lung."

In addition, 57,900 mine atmospheric samples of potentially hazardous airborne substances and gases were analyzed at Technical Support laboratories. These included quartz, silica, elemental and other types of analyses. Such analyses support physical and chemical analytical enforcement activities, and contribute to solving health and safety problems.

Automated Temporary Roof Support Systems (ATRS) have been recognized as providing significant protection to miners from roof falls. While their application to low coal mines had been limited, as of March 29, 1990, their use in mines below 30 inches in height must be addressed in the roof control plan. Technical Support specialists cooperated with numerous manufacturers, mining equipment modifiers, and MSHA field personnel in formulating design load and certification guidelines, and by providing technical assistance during the design stages and subsequent field evaluations of ATRS.

Close relations among MSHA and the mine safety and health research agencies, particularly the Bureau of Mines,

continued in FY 1990. Technical Support engineers and scientists conducted exhaustive in-mine and laboratory tests on a portable rock-dust meter, whose prototype had been developed by the Bureau of Mines. Criteria for the evaluation of explosion-proof seals constructed in underground mines were also developed in conjunction with the Bureau of Mines. Personnel also developed standardized test procedures and criteria for determining the suitability of sealants to protect coal against fire in battery-charger and transformer stations. Meetings between the two agencies were held during the fiscal year to review and evaluate research findings and discuss new technical projects.

At the request of the U.S. Department of Justice, which was litigating a methane explosion that killed three construction workers in the Crosstown Seven North Tunnel in Milwaukee, WI, on November 10, 1988, Technical Support engineers provided expert technical testimony in a federal grand jury hearing.

MSHA's technical specialists assisted in the investigation of an explosives accident that killed three underground coal miners at the Granny Rose Coal Co.'s No. 3 Mine on July 31, 1990, near Barbourville, KY.

Engineers participated in MSHA's investigation of the September 13, 1989, gas explosion at Pyro Mining Co.'s underground coal mine in Wheatcroft, KY, which resulted in 10 fatalities. The engineers, through in-mine evaluations and their laboratory testing of 26 pieces of evidence, determined the probable causes of the explosion.

Technical Support also provided the Commonwealth of Pennsylvania with technical assistance in hoist and elevator safety. The Pennsylvania Department of Environmental Resources has been using this technical input to require ascending car overspeed protection on elevators.

Technical Support developed a proposal for international reciprocal testing in conjunction with mine product approval. The proposal is now with the Department of State for review and approval to negotiate with the first intended participant, the United Kingdom.

Standards, Regulations and Variances

The MSHA Office of Standards, Regulations, and Variances continued its ongoing regulatory review program during FY 1990.

During FY 1990, MSHA published proposed rules on the use of diesel-powered equipment; electrical safety standards for underground coal mines; electrical safety standards for metal and nonmetal mines; and inspections of refuse piles and waste impoundment dams at surface coal mines and surface work areas of underground coal mines. Final rules published include multiple-shot blasting units; pattern of violations; and safety standards for berms or guardrails at metal and nonmetal mines.

On October 4, 1989, MSHA published a proposed rule on exposure monitoring, safety requirements and approval for the use of diesel-powered machines in underground coal mines. At the same time, MSHA also published an advance notice of proposed rulemaking for approval requirements of diesel-powered equipment to be used in underground coal mines.

On November 21, 1989, MSHA published a final rule to implement new procedures and requirements for testing and approval of multiple-shot blasting units used underground in coal mines and certain metal and nonmetal mines.

On December 4, 1989, MSHA published proposed rules on electrical safety standards for underground coal and metal and nonmetal mines. MSHA also published an advance notice of proposed rulemaking for noise standards, for both coal and metal and nonmetal mines, to reduce the incidence of noise-induced hearing loss among miners. An advance notice of proposed rulemaking for approval requirements on the use of electrical detonators was published at the same time.

On December 8, 1989, MSHA published a proposed rule to amend the existing safety standards for explosives and blasting in underground coal mines. The proposal clarified the existing standard and provided compliance alternatives.

On February 8, 1990, MSHA published a final rule which revised certain existing underground roof support safety standards. The standards, which address the quality of roof bolts and the removal of permanent roof supports, had been

challenged in the D.C. Circuit Court. The final rule was not challenged.

On April 2, 1990, MSHA published a proposed rule to revise one section of the safety standards for methane in metal and nonmetal mines to make the standard conform to recent changes in approval requirements for multiple-shot blasting units.

On April 16, 1990, MSHA published a final rule which exempted certain anthracite coal mines from the requirement to use conventional roof supports in underground coal mines.

On February 17, 1988, the Coal Employment Project and the United Mine Workers of America challenged MSHA's civil penalty regulations. Specifically, petitioners challenged the Secretary of Labor's authority to assess a \$20 single penalty for violations that are not significant and substantial (non-S&S violations) and which are timely abated (*Coal Employment Project, et al. v. Secretary of Labor*, D.C. Cir. No. 88-1708). On November 21, 1989, the United States Court of Appeals for the District of Columbia Circuit ordered MSHA to revise its civil penalty regulations and to take immediate interim steps to correct defects in the assessment system. After a subsequent challenge to the agency's initial response to the Court's order, on May 29, 1990, MSHA issued a policy letter implementing a program of increased penalties for a mine with an "excessive history" of both S&S and non-S&S violations. During FY 1990, MSHA worked on developing a comprehensive proposal updating the civil penalty regulations and addressing the excessive history issue. MSHA expects to issue the proposal early in FY 1991.

On June 15, 1990, MSHA published a proposed rule which would revise safety standards that address refuse piles and impoundment structures used at coal mines to dispose of refuse or contain water, sediment or slurry.

MSHA published a final rule on July 31, 1990, containing criteria for identifying mines with a "pattern of violations" of mandatory safety standards that "significantly and substantially" contribute to safety or health hazards. The final rule, which

implements section 104(e) of the Act, became effective on October 1, 1990.

On October 24, 1988, MSHA issued a stay of the safety standards addressing an alternative for berms or guardrails at metal and nonmetal mines. On September 7, 1990, MSHA published a final rule allowing an alternative to berms or guardrails on infrequently traveled portions of elevated roadways used only by service or maintenance vehicles.

Other regulatory topics under review during the fiscal year included proposals on accident and injury reporting; approval requirements for flame-resistant conveyor belts; electric cable and splice kit approvals; electric motor assemblies; and improving information on toxic substances that is provided to miners--all of which were expected to be issued for public comment in FY 1991. Work is expected to continue on air quality and chemical substances at coal and metal and nonmetal mines and on safety requirements for underground coal mine ventilation.

Educational Policy and Development

Educational Policy and Development (EPD) continued to develop, monitor, and evaluate the training programs for the nation's mining industry during fiscal year 1990.

During FY 1990, the MSHA state grants program, administered by EPD, disbursed \$5.9 million to 46 states and the Navajo Nation for use in developing and conducting mine health and safety education and training programs. An estimated 140,000 miners were trained using the resources of the program.

The division proceeded with the revision of the existing CFR Part 48, which covers training of miners. EPD held numerous briefings on the topic of training of independent contractors for external industry groups and developed and issued new policy on independent contractors.

Educational Policy and Development was the focal point for agency efforts to promote the use of Job Safety Analysis (JSA). Job Safety Analysis is a proven accident prevention technique through which miners, foremen, and supervisors are able to

work together to identify hazards and to develop step-by-step procedures that make up the safest, most effective way of completing a major task. This program is one of several strong injury prevention initiatives undertaken or strengthened by MSHA during the fiscal year. The JSA initiative included many meetings with industry and labor as well as development and issuance of printed and video-taped training materials and the formation of a joint management/labor/MSHA JSA steering committee. In addition, special emphasis programs for JSA were initiated by a number of states through MSHA's state grants program, and large numbers of requests from industry, academia and state representatives for JSA materials were received as a result of EPD's outreach efforts in this area. JSA was publicized through the monthly Holmes Safety Assn. Bulletin, and through weekly contacts with industry and State officials.

In response to a higher-than-expected number of deaths and injuries occurring in the mining industry due to failure of workers to use seat belts on mining vehicles use, EPD developed and implemented a seat belt safety program.

EPD also developed a hazard alert program depicting recent fatal accident circumstances in order to call attention to the specific types of accidents occurring in mines. This program was put into effect by the Coal and Metal and Nonmetal Divisions.

In the area of substance abuse in the mining industry, EPD developed and distributed training materials in both written and video formats and took part in activities of the Mining Industry Committee on Substance Abuse.

During the year, EPD redesigned the Holmes Safety Assn. Bulletin, a safety awareness publication, to improve its quality and usefulness. The Holmes Safety Assn. (HSA) is a national voluntary association dedicated to preventing fatalities and other mining accidents.

The National Mine Health and Safety Academy successfully implemented a new MSHA planning process for training which ties materials and course development directly to internal and external client training needs. The Academy also continued to

increase the level of review for training products and courses.

EPD also assumed primary responsibility for MSHA's supervisory/managerial development program which previously had been operated by a contractor.

Office of Assessments

MSHA's Office of Assessments assessed civil penalties for 151,947 violations of the Federal Mine Safety and Health Act (Mine Act) and of mandatory safety and health standards. Total penalties assessed were \$17.9 million, a 9 percent increase over the previous year. Assessments continued to be issued in a timely and accurate manner.

Special assessments totaling \$5.9 million were proposed for 11,360 violations, accounting for 7.5 percent of the total violations and 33 percent of the total penalties assessed. This increase from 4.5 percent of the violations and 24 percent of the penalties assessed in FY 1989 was due in part to the inclusion of violations, cited at mines with excessive history, that otherwise would have received regular formula assessments. Also of significance, the number of violations assessed against individuals under Section 110(c) of the Mine Act increased from 101 in FY 1989 to 248 in FY 1990.

On May 29, 1990, the Excessive History Program was implemented and increased civil penalties for violations cited at mines determined to have an excessive history of violations. Since implementation, 18 percent of the total violations assessed and 10 percent of the mines have been affected by this program.

Enhanced special assessments, totaling \$440,000, were proposed for 80 violations issued at Pyro Mining Co.'s William Station Mine. This was the site of the September 1989 mine accident in which 10 miners were killed.

Mine operators requested hearings with the Federal Mine Safety and Health Review Commission on 6,058 violations (4 percent) during fiscal 1990, a slight increase over FY 1989 requests.

MSHA continued its aggressive efforts to collect delinquent civil penalties for violations, primarily through use of knowledgeable MSHA collections staff at headquarters and in

key mining areas, emphasizing both increased personal negotiation and support for litigation, where warranted. This effort enabled the government to collect \$1.22 million in delinquent penalties during the 1990 fiscal year. MSHA also considered and negotiated installment plans for certain mine operators claiming an inability to pay the full amounts owed at one time. A record high of \$14.8 million in civil penalties was collected in FY 1990.

Pension and Welfare Benefits Administration

During FY 1990, the Pension and Welfare Benefits Administration (PWBA) undertook several key initiatives to further strengthen and protect employee benefit plans under the Employee Retirement Income Security Act (ERISA) and the Federal Employees' Retirement System Act (FERSA). These initiatives resulted in a busy legislative calendar, record-breaking enforcement activity and completion of new regulatory programs designed to reinforce both the professional responsibility and financial integrity of the private employee benefit community. PWBA oversees the responsible management of 5.5 million private-sector pension and welfare benefit plans with more than \$2 trillion in assets.

Policy Initiatives

PWBA developed a legislative initiative proposed by the Secretary that would provide incentives and remove impediments for plan participants considering private litigation under ERISA. The proposal would require reasonable compensation for expert witnesses and attorneys to successful plaintiffs in private civil actions for fiduciary breaches. The initiative also would allow the Secretary to reward an individual who reports a violation that resulted in a successful action being brought by the Department. The initiative would strengthen deterrents for potential violators of ERISA by, among other things, increasing the existing penalties for prohibited transactions from 5 percent to 10 percent and requiring certain multiple employer trust arrangements to file registration statements with the Department. The legislation also would strengthen ERISA's audit requirements by eliminating the limited scope audit and requiring auditors of pension plans to undergo a peer review every three years.

The Secretary also announced several recommendations designed to provide more workers with pension coverage and to promote pension portability by enabling a worker to preserve

pension benefits when changing from one employer to another.

The agency also testified before several congressional committees regarding the Department's program for improving enforcement of the fiduciary provisions governing the nation's employee benefit system. PWBA explained its targeted enforcement strategy, investigative procedures, computer targeting system, coordination with other Federal agencies and a comprehensive training program for civil and criminal investigations.

Citing the healthy status of the nation's voluntary system, the agency opposed a bill that would mandate joint labor-management boards to manage private employee benefit plans. Speaking before a congressional committee, PWBA testified that the bill was unnecessary because it would result in increased costs for providing benefits and impose additional administrative burdens on plan sponsors.

Enforcement

The 1990 fiscal year was a pivotal one for addressing goals of the program's enforcement and oversight function.

Based on both civil and criminal investigations, the agency recovered a record \$139,363,421 for employee benefits plans. Of this amount, \$17,546,414 was recovered through voluntary compliance and \$121,817,007 through litigation.

Two more records were achieved by the end of the year when 95 civil cases were referred for litigation and 102 criminal investigations were in progress by the end of the year.

During the past year, a special Department-wide Task Force on Enforcement was established by the Secretary and it issued a report analyzing enforcement strategies of various agencies, including PWBA. In accord with one of the recommendations in that report, PWBA plans to establish a criminal enforcement coordinator in an effort to better address the criminal activities that affect employee benefit plans.

The ERISA Information System, a database of information on all employee benefit plans that file Form 5500 Series annual reports, became operational. This system is a significant step toward PWBA's goal of increasing the quality, accessibility and

timeliness of information concerning employee benefit plan financial status and activities. The system, developed and operated in cooperation with the IRS, electronically screens all of the Form 5500 Series annual reports filed by plans. Using sophisticated data processing and management techniques, the system dramatically increased compliance with the reporting requirements under ERISA and provided PWBA with extremely valuable data. The system enabled PWBA to identify certain plans for investigation and provided management information on the conduct of investigations.

Regulatory Environment

During FY 1990, improved methods were initiated to serve the employee benefit community more effectively and encourage responsible plan management.

New procedures were published to assist persons in seeking exemptions for transactions which otherwise would be prohibited under ERISA. Specifically, the final rule would give applicants increased guidance in submitting more complete applications and facilitate the application process as a whole.

PWBA also issued proposed and interim rules for assessing civil penalties against persons who violate the fiduciary requirements of ERISA. The proposed rule defined certain terminology contained in the statute and the interim rule established procedures governing the assessment of penalties, conferences and petitions for waivers or reduced penalties.

PWBA also adopted internal guidelines establishing the structure within which annual reports filed by plans were being rejected for reporting deficiencies and penalties assessed or abated.

The program devoted considerable effort working with the American Institute of Certified Public Accountants in revising an accounting and auditing guide that was used widely by employee benefit auditors. A draft copy of the guide had a new chapter outlining an auditor's role and responsibility for protecting ERISA plans and provided much needed guidance for accounting professionals, especially in the area of updated information concerning ERISA regulatory requirements.

The guide also incorporated significant new audit standards dealing with the reporting of errors, irregularities and illegal acts which would help in the program's enforcement area.

Also in 1990, PWBA achieved the final implementation of audit and review functions mandated under the Federal Employees' Retirement System Act (FERSA). The 1989 audit of the Federal Employees' Retirement System (FERS) was successfully completed.

Research

Several projects that provided important data concerning various aspects of employee benefit plans were completed and initiated. Among them, a compendium of statistical information and analysis, "Trends in Pensions," was published. The book addresses several issues including pension coverage, funding status, the role of pensions in the national economy and rates of returns on plan assets. The publication also features a section covering various characteristics of pension plans in other industrialized nations. PWBA has initiated an update of this publication and has begun work on "Trends in Health Benefits."

Several studies on the portability of pension benefits were concluded. These addressed the labor market effects of benefit portability, the measurement of benefit losses and an analysis of differences in portability between men and women. A study of asset allocation and investment practices by pension plans also was completed. PWBA continued to develop a research program on employment-based health insurance and completed studies in health care utilization and job changes and their effects on health insurance status. An analysis of the costs and distribution effects of mandated benefit proposals also was continued.

The agency also hosted the first international pension conference to facilitate international research and the exchange of information. Representatives from five industrialized nations participated. A report containing the conference presentations was scheduled for release.

Public Outreach and Assistance

PWBA received more than 63,000 written and telephone inquiries from participants, beneficiaries, employers and other interested parties concerning employee benefits. Many inquiries were from individuals with specific problems related to obtaining benefits. PWBA was able to assist employee benefit plan participants to obtain \$6,791,514 in benefits to which they were entitled but were unable to achieve on their own.

A significant portion of telephone inquiries related to questions concerning rights to continued health benefits and employer obligations under the Consolidated Omnibus Budget Reconciliation Act (COBRA).

In an effort to increase public awareness of the program's activity, PWBA published a record number of news releases, initiated the first targeted media campaign to highlight the results of important enforcement cases and published a new recruiting brochure to attract quality personnel to the agency.

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Office of Labor-Management Standards

During fiscal year 1990, the Office of Labor-Management Standards (OLMS) continued to emphasize a well-balanced program of enforcement of the civil and criminal provisions of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), Section 1209 of the Postal Reorganization Act (PRA), and the standards of conduct regulations implementing Section 7120 of the Civil Service Reform Act (CSRA) and Section 1017 of the Foreign Service Act (FSA). OLMS also continued to emphasize educational and compliance assistance activities designed to promote greater understanding of, and compliance with, the Acts.

During the 1990 fiscal year, 205 indictments and other criminal actions were returned and 153 convictions and Pre-Trial Diversion Agreements were obtained as a result of OLMS investigations. These are the highest number of indictments and the second highest number of convictions achieved by OLMS in any fiscal year since the passage of the LMRDA. As a result of enforcement actions taken in FY 1990, \$1,556,748 in embezzled funds were recovered and \$4,219,726 in fines were imposed by the courts.

OLMS conducted 357 embezzlement investigations in FY 1990 involving all types and sizes of unions throughout the country. At the end of this fiscal year, 209 criminal cases were pending at the Department of Justice and 385 cases were pending in OLMS field offices. In furthering its criminal enforcement objectives in accordance with Department of Labor guidelines, OLMS developed a guide for Federal prosecutors on the LMRDA criminal provisions. The guide, which includes an overview of applicable law and key court decisions, is intended to serve as a reference source to assist United States Attorneys in prosecuting LMRDA criminal cases.

In the civil enforcement area, OLMS opened 196 election investigations based on complaints from union members alleging violations of the union officer election provisions of the

LMRDA and 23 investigations into potential violations of the LMRDA trusteeship provisions. Twenty-three of the election complaints involved international or national unions. Civil action was taken in 37 cases, while 23 cases were settled by voluntary compliance. OLMS also supervised 57 union officer elections, including six in national or international unions.

During FY 1990, OLMS continued to conduct compliance audits of international, national, and local labor unions. Such audits are undertaken primarily to ascertain compliance with the criminal and civil provisions of the LMRDA and to provide compliance assistance to union officials. OLMS conducted these audits using streamlined procedures under its International Compliance Audit (I-CAP) and Compliance Audit (CAP) Programs. In FY 1990, OLMS developed a new program, L-CAP, for auditing large local unions with annual receipts of more than \$500,000. Following completion of L-CAP audits during FY 1991, OLMS will evaluate the L-CAP to determine whether modifications are required.

I-CAP audits were conducted in five national and international labor organizations in FY 1990. Fewer I-CAP audits were conducted than in previous years, primarily because the unions audited were larger in terms of both annual receipts and disbursements. The national and international organizations audited had combined annual receipts of over \$317 million and represent more than 452,000 members in 2,591 affiliated bodies. In addition, 1,087 local union CAP audits were conducted in FY 1990, resulting in 134 fallout embezzlement cases and revealing numerous civil violations. Most of the recordkeeping, reporting, and other civil violations discovered as a result of the audits were remedied through voluntary compliance by the unions involved.

In administering its reporting program, OLMS received and processed more than 57,000 reports filed by unions, union officers and employees, employers, labor relations consultants, and surety companies as required by the LMRDA and CSRA in FY 1990. OLMS opened 114 employer, consultant, and union officer and employee reporting investigations, and closed 144 such cases during FY 1990. In addition, OLMS continued to

place emphasis on obtaining delinquent and deficient union financial reports. Reducing the number of deficient reports filed by labor organizations has been a priority for OLMS in support of one of the Secretary's goals for FY 1990. To meet this objective OLMS developed a comprehensive new deficient reports program with an increased enforcement emphasis. A previously developed delinquent reports program proved successful and remains a high priority for OLMS.

In FY 1990, OLMS field offices conducted various types of compliance assistance activities in order to promote voluntary compliance with the LMRDA and to complement OLMS civil and criminal enforcement programs. The offices conducted seminars on the provisions of the LMRDA for particular union affiliations or all unions within a geographical area. Contacts with top level international and national union officials were continued to provide assistance, improve compliance, and promote increased awareness of statutory obligations. OLMS also issued two editions of "The Labor-Management Standard," a newsletter for national and international union officers which features a compliance assistance sheet insert that may be retained for easy reference.

As part of its compliance assistance efforts in FY 1990, OLMS produced and distributed a 32-minute videotape and an accompanying pamphlet on preparing the Form LM-3 labor organization annual financial report required under the LMRDA. The video and pamphlet were targeted for financial officers of small unions and are expected to assist labor organizations in complying with the LMRDA reporting requirements, thereby reducing the number of delinquent and deficient reports. OLMS distributed complimentary copies of the video to each international and national union. In addition, the video was made available for loan at all OLMS field offices and may be duplicated, as needed. In FY 1990, OLMS also issued revised Spanish language versions of its compliance assistance publications, "All About OLMS," "Union Investigations," and "Reports Required." This was part of a continuing project to issue Spanish translations of all the OLMS compliance assistance publications.

In FY 1990, OLMS continued to place emphasis on the training of its investigators. OLMS has worked to assure that investigators, auditors, and other staff are trained, able to respond to the concerns of the public, and to conduct expert audits and investigations to safeguard the rights and funds of America's union members. This will continue to be a priority for OLMS in FY 1991.

Bureau of Labor-Management Relations and Cooperative Programs

The greatest challenge of the Bureau of Labor-Management Relations and Cooperative Programs (BLMRCP) in FY 1990 was to provide timely information and services tailored to the fast-paced changes occurring in labor relations policies and practices.

To meet the needs of a growing constituency, the Bureau published an extensive compilation of innovative work systems, expanded the readership of its bimonthly newsletter, and pilot-tested several technical assistance packages designed to help labor and management effect significant organizational change.

To keep the Department's executive staff and other government officials informed of significant developments in collective bargaining and labor relations, the Bureau expanded the scope and analysis of its background briefing papers and information memoranda. This information was used for media appearances, policy development, and legislative initiatives.

Industrial Relations

During FY 1990, BLMRCP staff briefed the Secretary and the executive staff regarding significant labor relations developments and major labor-management negotiations. Staff closely monitored negotiations and prepared in-depth briefing papers on developments in professional baseball, mining, transportation, chemical and oil, automobile, shipping, and other industries. BLMRCP also prepared briefing papers for the Secretary on the AFL-CIO's constitutional convention, the executive council meeting, and other conventions and meetings of international unions and AFL-CIO departments.

The Bureau expanded its "Weekly Report of Significant Activities in Labor Relations" to include more comprehensive information on trends and developments in joint health care

initiatives, new approaches to work, and a wide range of issues facing the labor relations community.

Staff continued to participate on the Collective Bargaining Forum, the Economic Policy Council panel on employee involvement, as well as interagency task forces on health care and work force quality.

The Cooperative Information Clearinghouse, a computerized database of innovative joint labor-management initiatives, expanded in FY 1990. The Bureau began collecting case information about win-win negotiations, innovative approaches to health care cost containment, joint labor-management approaches to substance abuse, and new work organizations.

Public Information

To guide organizations attempting to implement or improve cooperative programs, the Bureau continued to publish case studies, briefs, and special reports. "The New Work Systems Network: A Compendium of Selected Work Innovation Cases," which identifies more than 400 innovative site-level programs, highlighted the publishing year.

The bimonthly newsletter, "Labor Relations Today," reported newsmaking trends about industrial and labor relations practices and programs to an international audience of more than 17,000 labor-management relations practitioners.

The Bureau also published reports detailing cooperative endeavors in the railroad and steel industries, as well as summaries of three symposia: "The Challenge of New Technology," "Labor-Management Cooperation: 1989 State-of-the-Art-Symposium," and "Participatory Leadership: School and the Workplace." Education Digest printed a summarized version of "Participatory Leadership."

"Committed to Change," a training video produced in FY 1990 by the Bureau, focused on the resources and skills needed to form or improve a labor-management committee. The 20-minute video helps committee members ask the "right" questions so they can avoid potential pitfalls. Staff also finalized production of a 650-page, 9-module training manual, Committee

Effectiveness Training, to assist trainers in helping labor-management committees improve their skills.

Program Development

Bureau personnel pilot tested four training programs designed to give labor and management the knowledge and skills necessary to implement joint labor-management activities. The training programs are Orientation to Joint Labor-Management Initiatives--Education (OJLMI-E), Partners in Change (PIC), Win/Win Bargaining Training (WWB), and Committee Effectiveness Training (CET). School systems in Minneapolis, MN, and Casper, WY, helped pilot test the Bureau's PIC program, and the Casper and Albuquerque, NM, school systems held Win-Win Bargaining seminars.

The Bureau concentrated its public sector efforts at the institutional level by working closely with the Association of Labor Relations Agencies and the State and Local Government Labor-Management Committee, among others. Working with these organizations has expanded the Bureau's outreach capabilities. Developing and distributing appropriate resources and promoting labor-management cooperation has enabled the Bureau to reach virtually every national public agency and local union.

Field Services

In FY 1990, the Bureau expanded the number of providers in its "delivery network," designed to leverage the resources of locally based organizations by training them how to use Bureau-developed training materials. The network enhances the Bureau's ability to deliver information, training and education programs, and technical assistance in an attempt to meet the demand from a wider public.

Bureau staff provided training to more than 240 delivery network trainers representing 118 local resource organizations including the Federal Mediation and Conciliation Service, State mediation services, university-based labor relations institutes, and area labor-management committees. These local trainers, in turn, have responded to numerous requests from local labor and

management representatives for training and information. The Bureau responded to more than 100 requests for technical assistance from local trainers.

Through an active conference and seminar agenda, the Bureau provided a forum for labor and management to continue reexamining their roles to achieve a quality workplace. By putting emphasis on creating a quality workplace for a quality work force, the Bureau began to challenge the labor-management community by exposing them to organizations that have achieved business, human resource, and labor relations plans organized around consistent principles of cooperation, employee involvement, and workplace quality.

Staff continued to test new training programs in the field, resulting in an increased demand for their presentation, and lead to an expanding pool of candidate organizations for further field tests.

Education Initiative

The Bureau completed and pilot tested a draft redesign of OJLMI-E for use in 15 public school systems in Pennsylvania and California. The one-day introductory program will be finalized in FY 1991.

The Bureau served as an associate member of the Urban District Leadership Consortium that represents some 20 large-city school systems. The consortium promoted communication about improving public education through teacher-administrator alliances.

The Bureau continued its outreach program to universities and, in cooperation with the Employment and Training Administration (ETA), made a grant to the Claremont Graduate School to conduct a major study of unions and educational reform.

The Carnegie Corporation of New York is also funding the two-year study, which will provide significant information to encourage the spread of cooperative techniques for improving public education.

Industrial Adjustment

The Canadian-American Demonstration Project, cosponsored by the Bureau and the National Governors Association, ended in FY 1990. The Demonstration Project, based upon the Canadian Industrial Adjustment Service, provided advance notice, rapid response, and help in forming labor-management-neutral committees during plant closings or mass layoffs, to help ease the impact on workers. A General Accounting Office (GAO) report evaluating the Canadian-American Demonstration Project concluded that, "labor-management committees enhance reemployment assistance."

BLMRCP developed and distributed a "Directory of Plant Closings/Mass Layoffs Using Labor-Management-Neutral Outplacement Committees" to each State Dislocated Worker Unit; there are currently about 100 committees in 24 states.

The Bureau cosponsored state workshops on rapid response and labor-management committees on plant closings and mass layoffs in Arizona, Indiana, Nevada, Oklahoma, Oregon, Texas, and the District of Columbia.

The Bureau promoted worksharing as an alternative to temporary layoffs, cosponsored symposia on worksharing attended by representatives from 10 states, and encouraged states to introduce worksharing during their 1991 legislative sessions.

In cooperation with ETA and the Defense Department, the Bureau served on a task force to plan outplacement and retraining for workers affected by defense reductions.

Research and Policy Developments

The Bureau published research studies on human resource policies and practices in American corporations, and on the search by CSX Corporation and its railroad unions for improved labor relations through a gainsharing proposal. In addition, a study on the aging work force was partially funded by the Bureau and published by Wayne State University Press.

Recently completed research focuses on mutual gains bargaining, job-site employee involvement in the construction industry, the role of labor-management relations in the railroad

industry, and labor-management innovation in small firms.

Staff continued to hold membership on both the national and local executive boards of the Industrial Relations Research Association (IRRA) and the executive committee of Columbia University's seminar on labor.

Staff spoke at the annual meeting of the University Council of Industrial Relations and Human Resource Programs, counseled the American Assembly of Collegiate Schools of Business on accreditation issues regarding labor-management relations and cooperation, and was preparing two panels on employee involvement issues for the spring 1991 meeting of the IRRA. Resources were shifted from contract/grants research to in-house research and data collection.

In the policy area, the Bureau examined legislative proposals on employee protection, parental leave, child care, economic adjustment, and amendments to labor relations laws.

International Activity

The Bureau continued to support the International Productivity Service, which collects and disseminates information on international productivity, human resources, and other innovative workplace developments, and continued to work with the Japan Productivity Center, the Canadian Labour Market and Productivity Centre, and the European Association of National Productivity Centers.

A seminar in June on bargaining decentralization in the United States and Israel was part of a continuing cooperative agreement with the Israeli Ministry of Labor and Social Affairs. Participants included researchers from the Hebrew University, MIT, Cornell, Carnegie-Mellon, and George Washington University, in addition to Bureau and Ministry officials. As part of a recently established cooperative program with the Swedish Ministry of Labor, the Bureau hosted a seminar on work organization developments in America and Sweden.

In March the Deputy Under Secretary chaired the 20th session of the Working Party on Industrial Relations of the Organization for Economic Cooperation and Development (OECD). Bureau staff provided briefing material for that

meeting, and helped the Department prepare for the OECD and the International Labor Organization meetings. Throughout the year, staff provided briefings about Bureau programs and U.S. industrial relations to foreign visitors and to Foreign Service Officers of the State Department. Staff members also helped the Bureau of International Labor Affairs develop training programs on labor-management relations.

Statutory Responsibilities

The Bureau continued to administer its responsibilities under the Urban Mass Transportation Act requiring that "fair and equitable" arrangements protecting mass transit employees be certified before granting Federal assistance. The Bureau certified nearly 1,000 projects during 1990, an increasing number of which addressed new and complex issues under arrangements developed by the parties. Many cases required the Secretary to make decisions or determinations about protective arrangements.

The basic eligibility under Title II of the Redwood National Park Expansion Act expired in 1988. During FY 1990, the Bureau ended its responsibilities under the Redwood Employee Protection Plan (REPP), reducing the number of basic eligibility determinations to eight, and the number of pension determinations to 43. The Bureau also completed all 464 health and welfare cases. A Notice of Proposed Rulemaking was scheduled for publication in the *Federal Register* announcing the Bureau's intention to close out the REPP program in FY 1991.

The Department reassessed the need for further extending the Airline Rehire Program, established under the Airline Deregulation Act. The program provided preferential hiring for 10 years to certain workers terminated or furloughed following the Act's passage in 1978. An ambiguity in the law has required the Bureau to extend its responsibilities in this area on a year-to-year basis since 1988.

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Office of the Assistant Secretary for Veterans' Employment and Training

Activities during fiscal year 1990 were highlighted by the inauguration of the Transition Assistance Program to assist separating military servicemembers during their transition to civilian life, and the activation of reserve and National Guard members due to the Persian Gulf crisis in August 1990. The call up of reserves and National Guard members, the highest level of activation in over 20 years, generated significant increases in requests for technical assistance and information related to the Veterans' Reemployment Rights program. Another agency activity receiving additional emphasis this fiscal year was administration of the Homeless Veterans' Reintegration Projects.

Through these and other programs and activities, the agency continued to pursue the objective of directing resources to meet the needs of our Nation's veterans, with particular attention in helping those veterans most in need.

Transition Assistance Program

The Transition Assistance Program (TAP) was inaugurated in May 1990 as authorized by P.L. 101-237. This unique program, a partnership with the Departments of Defense and Veterans Affairs, provides separating servicemembers with vocational guidance prior to separation. This service is provided by Local Veterans' Employment Representatives (LVERs) and Disabled Veterans' Outreach Program specialists (DVOPs).

Services provided include an appraisal of employment opportunities in specific geographic areas through the use of the Civilian Occupation Labor Market Information System (COLMIS), a review of job search and interview techniques, and information on the availability of training programs. This provides the veterans with the skills necessary to assist them make successful employment decisions.

The Disabled Transition Assistance Program (DTAP) is offered to servicemembers being separated due to a service connected disability. It includes an assessment of the job readiness of the separating servicemember as well as the TAP instruction.

In FY 1990, TAP was operational in seven States covering 22 locations, and provided services to 3,200 veterans.

Veterans' Reemployment Rights

During 1990, with the call up by the President of reserve and National Guard members and units, there was increased activity in the area of Veterans' Reemployment Rights. The volume of inquiries, questions, and requests for technical assistance increased significantly. The Department issued fact sheets and press releases, discussed reservists' rights in radio and television interviews, and used every means available to distribute reemployment rights information to the public. This media effort was directed at informing employers of their responsibilities, as well as encouraging them to facilitate the difficult transition of reservists called to active duty. Employers were encouraged to assist reservists by offering continued health insurance and other benefits during their absence. The effort also provided information on responsibilities and rights of reservists, and the role of VETS' mediating disputes and resolving misinterpretations.

Homeless Veterans

A competition open to the 50 largest U.S. cities was held for the fiscal year 1990 funds for the Homeless Veterans' Reintegration Project (HVRP), authorized under Section 738 of the Stewart B. McKinney Act. Fifteen grants were awarded for operations in 17 cities. A separate competition resulted in two projects to serve homeless veterans in rural areas. The program emphasizes placing homeless veterans into transitional and permanent housing.

National Veterans' Training Institute

During FY 1990, the National Veterans' Training Institute (NVTI) trained 1,953 participants in professional skills development, veterans' benefits, marketing and accessing the media, transition assistance, and case management. The NVTI is charged with training State employees--particularly Disabled Veterans' Outreach Program specialists and Local Veterans' Employment Representatives--as well as certain Federal employees, who are involved in delivery of services to veterans. The NVTI is operated by the University of Colorado at Denver under a contract administered by the Veterans' Employment and Training Service.

Job Training Partnership Act IV-C Program

For the second consecutive year, the Job Training Partnership Act (JTPA) Title IV-C program continued to target services to veterans' populations which experience the greatest unemployment, i.e., special disabled, Vietnam theater and minority veterans, and those recently separated from military service. The program emphasizes services which directly contribute to the development of work skills and prepare unemployed veterans to become competitive in the local labor market and achieve economic self-sufficiency. Eighty percent of the \$9,345,000 appropriation for Title IV-C is allocated directly to the States; the remaining 20 percent discretionary funds are used to fund projects which demonstrate unique and cost-effective forms of training interventions to JTPA IV-C eligible veterans.

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Office of the Solicitor

During fiscal year 1990, the Office of the Solicitor represented the Department in litigation and litigation support functions before the Supreme Court, the Federal courts of appeals, district courts and administrative tribunals. The Solicitor's Office achieved several important victories in the Supreme Court and was successful in obtaining the Court's review of other significant cases. The Department also received favorable decisions in numerous cases before the courts of appeals.

The Office provided substantial support to the Department's regulatory programs and also assisted Department officials and the Congress on various projects concerning important legislative matters.

Black Lung Benefits

During the past year, the Supreme Court again visited the black lung program. In addition, the courts of appeals issued a number of decisions of great significance.

The Supreme Court upheld the Office of Workers' Compensation Programs' (OWCP) attorney fee system from constitutional attack in *United States Department of Labor v. Triplett*, 110 S. Ct. 1428 (1990). At issue was whether the attorney fee provisions of the Black Lung Benefits Act of 1972, as amended, and its implementing regulations, as administered by OWCP, violated claimants' due process rights by depriving them of access to counsel. The Court rejected the conclusion of the West Virginia Supreme Court that the fee system, which restricts counsel's right to obtain a fee, renders claimants unable to retain qualified attorneys.

In *Lukman v. Director, OWCP*, 896 F.2d 1248 (10th Cir. 1990), the Tenth Circuit agreed with the Director that a miner who files a new claim for black lung benefits more than a year after final denial of an earlier claim is entitled to a complete administrative law judge (ALJ) hearing on the merits of the new claim. The court expressly gave deference to the interpretation of the Director in holding that the Longshore Act and the black lung regulations require the Department to

process such "duplicate" claims through the same three-tier review as an initial claim. This decision will assist claimants generally, since pneumoconiosis is a progressive disease, and will affect the processing of thousands of claims.

Several courts have issued significant and favorable decisions interpreting the Secretary's permanent disability regulations at 20 CFR Part 718. In *Bosco v. Twin Pines Coal Co.*, 892 F.2d 1473 (10th Cir. 1989), the Tenth Circuit considered the specific regulation defining "total disability" and concluded that the miner must establish his disability by a preponderance of the evidence.

A number of courts also held that the Part 718 regulations require claimants to prove that their respiratory disability is due in some part to coal mine employment. At the Department's urging, however, these courts rejected the Benefits Review Board's stringent requirement that pneumoconiosis must be the sole cause of disability. *Lollar v. Alabama By-Products Corp.*, 893 F.2d 1258 (11th Cir. 1990); *Shelton v. U.S. Steel Corp.*, 899 F.2d 690 (7th Cir. 1990); *Hawkins v. Director, OWCP*, 907 F.2d 697 (7th Cir. 1990); *Robinson v. Pickands Mather & Co.*, 914 F.2d 35 (4th Cir. 1990).

Several courts also ruled on the validity of the Secretary's "interim presumption" of disability at 20 CFR 727.203, applicable to claims filed before April 1, 1980. Specifically, these courts addressed claimants' argument that Congress had barred the Department from promulgating two of its four rebuttal methods when it required the Department's regulations to be "no more restrictive" than a particular regulation utilized by the Social Security Administration under Part B of the black lung program. See 30 U.S.C. 902(f)(2). In *Bethenergy Mines Inc. v. Director, OWCP [Pauley]*, 890 F.2d 1295 (3d Cir. 1989), cert. granted, No. 89-1714 (Oct. 29, 1990), the Third Circuit upheld the regulation. Relying on Congress's plain intent to provide benefits only to miners totally disabled by pneumoconiosis, the court reasoned that the Department or coal mine operator must be permitted to prove that the miner's disability is not due to pneumoconiosis. The Fourth Circuit, however, reached an opposite conclusion in *Taylor v. Clinchfield Coal Co.*, 895 F.2d

178 (4th Cir. 1990), *cert. granted*, No. 90-113 (Oct. 29, 1990), and *Dayton v. Consolidation Coal Co.*, 895 F.2d 173 (4th Cir. 1990), *cert. granted*, No. 90-114 (Oct. 29, 1990). As noted, the Supreme Court has granted certiorari in each of these cases.

In *Jordan v. Director, OWCP*, 892 F.2d 482 (6th Cir. 1989), the Sixth Circuit rejected a constitutional attack on the Department's method of notifying claimants that OWCP had denied their claims. The court agreed with the Department that the denial notice satisfied the requirements of due process, since it adequately informed the claimant why her claim had been denied and outlined various options for contesting the denial.

The Department continued to participate actively in litigation before the Benefits Review Board during the past fiscal year, filing over 1300 briefs, motions and other substantive pleadings and participating in the oral arguments scheduled before the Board.

The Board decided two important procedural issues during the past year. In *Dotson v. Director, OWCP*, 14 Black Lung Rep.(MB) 1-10 (Ben. Rev. Bd. 1990), the Board adopted the Tenth Circuit's *Lukman* decision and held that the Act and regulations mandate a formal hearing, if requested, in all claims. In *Ray v. Associated Electric Cooperative Inc.*, ___ Black Lung Rep.(MB) ___ (Ben. Rev. Bd. Mar. 14, 1990), the Board agreed with three courts of appeals that the statutory 30-day period for appealing from ALJ decisions does not commence until the decision is both filed in the office of the deputy commissioner and properly served on the parties.

The Board also decided favorably to the Department several significant overpayment issues. The Board held in *Jones v. Director, OWCP*, 14 Black Lung Rep.(MB) 1-80 (Ben. Rev. Bd. 1990), that ALJs possess jurisdiction to hear and decide requests by claimants for waiver of overpayment recovery. In *Potisek v. Director, OWCP*, 14 Black Lung Rep.(MB) 1-87 (Ben. Rev. Bd. 1990), the Board held that the Department's failure to inform a claimant that his interim award of benefits might have to be repaid did not justify waiver.

With respect to entitlement issues, the Board published two noteworthy decisions. In *Scott v. Mason Coal Co.*, 14 Black

Lung Rep.(MB) 1-37 (Ben. Rev. Bd. 1990), the Board overruled its prior holding that a miner's pneumoconiosis must be totally disabling in and of itself to be compensable and held that a miner's pneumoconiosis need only be a contributing cause of his totally disabling respiratory impairment for the miner to prevail under the Department's permanent criteria. In *Pershina v. Consolidation Coal Company*, 14 Black Lung Rep.(MB) 1-55 (Ben. Rev. Bd. 1990), the Board held that asbestos fibers in coal mines are included within the term "coal mine dust"; consequently, a lung disease caused by coal mine asbestos exposure is compensable under the Act.

Finally, in *Stiltner v. Doris Coal Company*, 14 Black Lung Rep.(MB) 1-116 (Ben. Rev. Bd. 1990), the Board addressed for the first time several issues presented by the Act's requirement that an operator reimburse a prevailing miner for reasonable medical treatment of his pneumoconiosis. The Board agreed with the Department that an employer cannot challenge the legitimacy of individual bills by evidence that the miner does not meet the medical requirements for benefits entitlement. A majority of the Board also concluded an ALJ may infer that all treated respiratory conditions constitute compensable pneumoconiosis as defined under the Act, and may refuse as impractical to apportion bills reflecting treatment of both pneumoconiosis and non-pulmonary conditions.

Civil Rights

During fiscal year 1990, the Division of Civil Rights participated in litigation, training activities, regulatory work, and the development of legal opinions involving issues arising under Executive Order 11246, as amended; sections 503 and 504 of the Rehabilitation Act of 1973, as amended; the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 2012 (VEVRA); Title VI of the Civil Rights Act of 1964; and the nondiscrimination provisions of the Job Training Partnership Act (JTPA) and its predecessor, the Comprehensive Employment and Training Act (CETA).

Enforcement activity on behalf of the Office of Federal

Contract Compliance Programs (OFCCP) constituted the major part of the Division's litigation during the fiscal year. The Division filed two Executive Order cases: *OFCCP v. Dooley Electric*, No. 90-OFC-19 and *OFCCP v. United Airlines*, No. 90-OFC-22. Both cases were successfully resolved by consent decree.

The Division also filed section 503 complaints in two cases during the fiscal year. In *OFCCP v. Pennsylvania Power & Light*, No. 90-OFC-17, a complaint was filed alleging handicap discrimination involving an individual with a knee impairment. The case was resolved by consent decree which provided for backpay, retroactive seniority and restored leave to the complainant. The Division also filed an administrative complaint in *OFCCP v. Norfolk & Western Railway*, No. 90-OFC-1, alleging handicap discrimination based on monocular vision.

Several other cases, which had been filed in previous years, were resolved by consent decree in FY 1990. In *OFCCP v. Precision Castparts*, No. 87-OFC-10, a sex discrimination case brought under Executive Order 11246, the decree provided for \$3.5 million plus interest in backpay as well as other remedies to approximately 900 victims of discrimination. This was one of the largest recoveries in the history of the Executive Order program.

Pretrial discovery continued in three significant cases under Executive Order 11246: *OFCCP v. Piedmont Aviation/U. S. Air*, No. 88-OFC-17 (pattern and practice of race discrimination); *OFCCP v. Woodward Governor*, No. 89-OFC-12 (pattern and practice of sex discrimination); and *OFCCP v. Roberts Dairy*, No. 89-OFC-38 (pattern and practice of sex discrimination).

During the fiscal year, the Division also filed exceptions and responses to exceptions to ALJ Recommended Decisions in several section 503 cases. *OFCCP v. Mountain Bell*, No. 87-OFC-25; *OFCCP v. Louisville Gas & Electric*, No. 88-OFC-12; *OFCCP v. CSX Transportation*, No. 88-OFC-24; *OFCCP v. City Public Service of San Antonio (CPS)*, No. 89-OFC-5.

During the fiscal year, the Division continued to prevail against court challenges to OFCCP's activities. The Division

obtained dismissals in several cases where OFCCP's decision not to initiate enforcement proceedings was held to be committed to agency discretion by law and immune from judicial review. *Gibson v. U.S. Department of Labor*, No. 89-3805 (6th Cir.); *Steele v. U.S. Department of Labor*, No. C89-850 (N.D. Ohio); *Harris v. Dole*, No. C88-3927 (N.D. Ohio); *Woodruff v. Kansas Board of Regents*, No. 87-4236-S (D. Kan.).

In *US Air v. Dole*, No. 90-487-A (E.D. Va.) the Division assisted the Justice Department in defending a lawsuit attacking the constitutionality of Executive Order 11246 and its implementing regulations. The court dismissed the case for lack of ripeness and failure to exhaust administrative remedies.

The Division also assisted the Justice Department in bringing a 16 year old case to conclusion. In *Women's Equity Action League (WEAL), v. Cavazos*, No. 88-5065 (D.C. Cir.), the court ruled for the government and dismissed WEAL's challenge to OFCCP's enforcement of the Executive Order at institutions of higher education. The court held that there is no statutory or Administrative Procedure Act authority for the lawsuit.

In *Stouffer Foods Corporation v. Dole*, No. 7:89-2149-3 (D.S.C.) the Division is assisting the Department of Justice in defending against the company's broad-based challenge to the Executive Order and section 503. Stouffer has alleged that the Executive Order is unconstitutional and that both the Order and section 503 violate the Contract Disputes Act. The case is now pending before the court on cross motions for summary judgement.

In *Board of Governors of the University of North Carolina (UNC), v. United States Department of Labor*, No. 89-3359 (4th Cir.), the Division is defending the decision of the Acting Secretary (84-OFC-20) that UNC is a government contractor within the meaning of the OFCCP programs and that all UNC campuses are covered by virtue of contracts awarded to some of the campuses.

During the fiscal year, the Division also prevailed in two cases challenging other Department of Labor agencies. In *Scaria v. Department of Labor*, No. CV89-4352 (ILG) (E.D.N.Y.), the court dismissed a challenge to the Directorate

of Civil Rights' (DCR) decision not to institute enforcement proceedings under the Age Discrimination Act. The court held that such a decision is committed to agency discretion by law.

In *Doe and Commonwealth of Massachusetts v. Office of Job Corps*, No. 89-0736-MC (D. Mass.) both plaintiffs agreed to a stipulated dismissal of the action, which had involved a challenge to Job Corps' testing of corpsmembers for HIV antibodies.

In *Dorsey v. United States Department of Labor*, No. 88-1898 (TFH) (D.D.C.), the Division is assisting the Department of Justice in the defense of the Job Corps' former and current Acquired Immune Deficiency Syndrome (AIDS) screening policies. The plaintiff has alleged that the Job Corps' former screening policy, which excluded residential program corpsmembers who tested positive for the AIDS virus, violates section 504 of the Rehabilitation Act, the First, Fourth, Fifth and Ninth Amendments to the Constitution, and the Administrative Procedure Act. The case is pending on the government's motion for summary judgment.

In addition to litigation conducted directly by the Division, significant attention was devoted to coordinating litigation in the OFCCP programs conducted by the regions. During the first three quarters of the fiscal year, OFCCP referred 64 cases to the Regional Solicitor's Offices. During the same period, 18 administrative complaints were filed by the regions--10 under Executive Order 11246, 6 under section 503, and 2 under VEVRA. In addition, during the first three quarters of the fiscal year, 10 cases were resolved in the regions by consent decree.

During the fiscal year, the Division also continued its very active opinion and advice support of Departmental activities. The bulk of the assistance was provided to OFCCP, but other organizations throughout the Department such as DCR, the DOL Academy, the Office of Safety and Health, the United States Employment Service (USES), and the Office of Job Corps (JC) also were given significant service.

The Division worked closely with OFCCP in the preparation of a chapter on resolution of noncompliance for the Agency's

compliance manual. With the issuance of the chapter in late May, OFCCP has revised all but one of the chapters of its field handbook for compliance staff.

An area of particular interest to OFCCP is encouraging a higher rate of compliance through more effective use of sanctions. The Division prepared a lengthy legal review of the extent to which sanctions never before used by OFCCP, such as debarment for a fixed period of time and assessing civil money penalties, could be applied to companies that violate the laws administered by OFCCP.

Another area of major interest to OFCCP and the Department is the "glass ceiling," a short-hand reference to the belief that minorities and women are subject to organizational barriers that limit their access to, and opportunities in, upper level corporate management positions. The Division is assisting OFCCP in its glass ceiling project, including preparing briefing materials for the Department's Policy Review Board and providing advice and opinions to OFCCP as it conducts pilot glass ceiling compliance reviews.

A portion of the Division's workload this year was linked to the consideration by Congress of two major civil rights bills; the Civil Rights Act of 1990 was intended by its proponents to overturn several recent Supreme Court decisions involving sex and race discrimination and the Americans With Disabilities Act of 1990 (ADA), which was enacted, provides broad-based protection against discrimination on the basis of physical or mental handicap. In addition, since the ADA became law the Division has worked with OFCCP and the Equal Employment Opportunity Commission to carry out statutorily required efforts to avoid duplication of effort and prevent the imposition of inconsistent or conflicting standards in the administration of section 503 and the ADA.

The Division again provided legal assistance to the Job Corps relating to AIDS; Division attorneys reviewed a proposed policy on the provision of prophylactic treatment to Job Corps students who have been exposed to the AIDS virus but do not demonstrate symptoms of the disease, and advised Job Corps on revision of the policy.

The Division devoted substantial time during FY 1990 to drug-abuse related projects. One of the Division's primary tasks was to provide legal support for implementation of the Department's Drug Free Workplace Plan. In addition, the Division provided legal assistance in support of efforts by the Department, the Administration and the Congress to address the nationwide drug problem.

Finally, the Division continued to commit substantial resources to work on the Task Force on Women in Nontraditional Jobs. During the fiscal year, one of the remaining compliance reviews, Dooley Electric, was closed through the filing of an administrative complaint and entry of a consent decree under which the company undertook to implement various affirmative action measures. Work continued on two other reviews. By year's end, the Task Force was nearing completion of its report on the construction trades.

Employee Benefits

During fiscal year 1990 the Division of Employee Benefits provided legal advice and litigation support services to the Office of Workers' Compensation Programs (OWCP) in connection with its administration of the Longshore and Harbor Workers' Compensation Act and the Federal Employees' Compensation Act (FECA). In addition, the Division was responsible for representing the OWCP in all suits filed against it involving the Longshore Act, the FECA, and the Black Lung Benefits Act, and for processing claims filed with the Department of Labor under the Federal Tort Claims Act (FTCA).

As usual, federal appellate court litigation under the Longshore Act and its extensions was quite extensive. Thirty-eight opinions were issued, many of which addressed novel issues or reiterated or clarified issues of great significance to the administration of the Longshore program.

Several decisions were issued defining the coverage of the Longshore Act. The Ninth Circuit held that an employee who was exposed to asbestos prior to 1972 while working on a "building way", but whose disability did not become manifest

until after the 1972 amendment to the Longshore Act defining navigable water as including building ways, was entitled to benefits under the amended Act. *Saif Corp./Oregon Ship v. Johnson*, 908 F.2d 1434 (9th Cir. 1990). The court concluded that, in long-latency delayed-manifestation occupational disease cases, the law in effect when the disability manifests itself must be applied and not the law in effect on the date of last exposure.

In two cases, different circuits reached different results with respect to the question whether particular claimants met the status requirement for coverage under the Longshore Act. The Eleventh Circuit, in *Atlantic Container Service, Inc. v. Coleman*, 904 F.2d 611 (11th Cir. 1990), held that a mechanic who repaired hustlers, inbound and outbound chassis and containers was covered by the Act because his activity was essential to the loading and unloading process. In *Coloma v. Director, OWCP*, 897 F.2d 394 (9th Cir. 1990), *cert. denied*, 59 USLW 3244, the Ninth Circuit held that a messman/cook, whose primary function was to provide meals to officers and seamen of visiting tankers, was not engaged in maritime employment and therefore was not entitled to benefits under the Longshore Act.

Section 33(g) of the Act was the subject of three appellate court decisions. In *Nicklos Drilling Co. v. Cowart*, 907 F.2d 1552 (5th Cir. 1990), *reh'g granted*, the Fifth Circuit held that, without exception, an employee who fails to obtain prior consent by his employer and carrier to the settlement of his claim against a third party tortfeasor forfeits all entitlement to benefits under the Act. *See also Petroleum Helicopters, Inc. v. Barger*, 910 F.2d 276 (5th Cir. 1990), *reh'g granted*.

In contrast to *Cowart* and *Barger*, the Ninth Circuit, in *Bethlehem Steel Corp. v. Mobley*, 912 F.2d 1084 (9th Cir. 1990), held that since the claimant was entitled to no "compensation" (as distinct from medical benefits) under the Longshore Act when he entered into several third party settlements, the amount of his settlements was not "less than the amount of compensation to which [he] would be entitled," as provided in that section.

Two opinions were issued clarifying the time of injury under

section 13's statute of limitations provision. In *Brown v. Jacksonville Shipyards, Inc.*, 893 F.2d 294, 296 (11th Cir. 1990), the Eleventh Circuit held, as argued by the Director, that the statute of limitations does not begin to run until the claimant knows of the "full character, extent and impact of the harm done to him." *Accord, J.M. Martinac Shipbuilding v. Director, OWCP*, 900 F.2d 180 (9th Cir. 1990).

The Ninth Circuit also construed the "time of injury" for purposes of determining a claimant's average weekly wage under section 10 of the Act. The court held in *Johnson v. Director, OWCP*, 911 F.2d 247 (9th Cir. 1990), that in traumatic injury cases, the claimant's average weekly wage is the wage paid when the claimant becomes permanently disabled, not the wage paid when the claimant sustained the employment accident.

An issue generating a good deal of litigation is whether permanent partial disability runs from the date the claimant's condition reaches maximum medical improvement or the date on which the employer first establishes that there is suitable alternate employment available to the claimant. Adopting the Director's position, the Ninth Circuit held in *Stevens v. Director, OWCP*, 909 F.2d 1256 (9th Cir. 1990) (petition for writ of certiorari pending), that permanent partial disability runs from the date of the availability of suitable alternate employment. This issue currently is on appeal in the Second, Fifth, and District of Columbia Circuits.

In addition to appellate court litigation the Division also represented the Secretary of Labor before the United States district court in an action seeking to recover civil penalties assessed under section 30(e) of the Longshore Act. *Dole v. Marine Repair Services of Maryland, C.A. No. R-90-498 (D. Md.)*. After the complaint was filed the employer paid the \$3,600.00 in penalties, which sum was deposited in the Special Fund pursuant to section 44(h). In addition, the defendant agreed to fully comply with the requirements of section 30(a) in the future.

During the fiscal year the Division processed in excess of 4,500 administrative claims involving asbestos-related injuries that were filed with the Department pursuant to the FTCA.

The Division also recovered more than \$2.357 million for the Employees' Compensation Fund as a result of settlements reached in third party tort actions involving injured federal employees; these settlements also permitted the Fund to establish a credit against future compensation liability in the amount of more than \$3.945 million.

The Division also provided assistance to the Department of Justice in regard to considerable litigation involving the FTCA and the FECA.

The Division also represented the Director, OWCP, in appeals filed with the Employees' Compensation Appeals Board (ECAB) under the FECA. Several important decisions involving issues of first impression were issued during the fiscal year.

OWCP's regulations, as amended in 1987, also withstood a challenge raised in the case of *Asline Johnson*, Docket No. 88-1628 (Jan. 31, 1990). There, the Board, citing 20 CFR § 10.124(f), held that the OWCP properly reduced appellant's monetary compensation by 100 percent where the evidence indicated that she would have sustained no loss of wage-earning capacity had she undergone vocational rehabilitation as directed.

A very significant decision was issued in the case of *Douglas E. Billings*, Docket Nos. 88-1172 and 89-855 (Aug. 7, 1990). At issue was whether the OWCP properly terminated his compensation because he returned to work while his appeal from an earlier unrelated decision was pending before the ECAB. In upholding the action of OWCP, the Board overruled its prior decision holding that no decision with regard to a claim could be issued while the claim was pending on appeal.

Employment and Training Legal Services

Continuing work on the implementation of legislative initiatives passed during fiscal year 1989, as well as work on new legislation and the implementation of the Secretary's workforce quality initiatives provided substantial challenges to the Division during fiscal year 1990. Enactment of the Immigration Nursing Relief Act and the high priority placed on the implementation of such initiatives as Apprenticeship 2000 necessitated rapid

coordination with client agency personnel, development of regulatory packages for new programs and reexamination of many of the traditional employment and training programs in light of the emerging realities of the current labor marketplace.

On December 18, 1989, Congress enacted the Immigration Nursing Relief Act of 1989 to establish conditions for the admission, during a five-year period, of nonimmigrant alien (H-1A visaholder) registered nurses as temporary workers. The Division provided extensive legal services to the Employment and Training Administration (ETA) and coordinated with other Department of Labor and federal agencies in developing regulations for this program.

In 1987, ETA began Apprenticeship 2000, an extensive review of the apprenticeship program and policies. As part of this process, ETA determined to revise the regulations on labor standards for apprenticeship programs. ETA, with the assistance of this Division, published proposed regulations under the National Apprenticeship Act (NAA).

Implementation of the Immigration Reform and Control Act of 1986 (IRCA), Pub. L. 99-603, continued to provide an important focus for the Division in FY 1990. While the temporary alien agricultural labor certification ("H-2A") program has not expanded as significantly as originally anticipated, the application of sanctions to agricultural employers hiring undocumented aliens has increased the opinion, legal advice, and litigation activities under the program.

Work continued on a proposed rule to revise the interim final rule for the "H-2A" temporary alien agricultural labor certification program under IRCA, to take into account comments on the 1986-87 rulemaking and to make other changes based on the agency's experience in administering the program.

The Division also provided legal assistance to ETA on the "50-percent rule" for the temporary alien agricultural labor certification program. An interim final rule to retain the 50% rule, with a post-publication request for comments, was published on July 19, 1990.

Activity under the H-2A program continued with a marked degree of success at the administrative litigation level. However, the most significant activity in the temporary agricultural labor certification program continued to center around the methodology used for setting the adverse effect wage rates (AEWRs). The initial IRCA rulemaking in June 1987 set the AEWR at the average agricultural wage as determined by Department of Agriculture surveys. The rule was remanded to the Department for further explanation. *AFL-CIO v. Brock*, 835 F.2d 912 (D.C. Cir. 1987).

The AEWR rule was repromulgated with a new explanation. This methodology was again challenged, and on August 30, 1990, District Judge Stanley Sporkin issued an unfavorable opinion in *AFL-CIO v. Dole*, Civil Action No. 89-2315 SS, U.S. Dist. Lexis 12316 (D.D.C. 1990). Judge Sporkin concluded that the "inconclusive" data on wage depression that the Department relied upon was inadequate to justify a departure from what he considered a long established agency practice of "enhancing" wage rates to avoid wage depression. Pending appeal, Judge Sporkin's order was under a stay at year's end.

In the area of permanent alien labor certifications, the Division assisted ETA in developing a draft proposed rule to update and streamline the certification process. Publication of the proposed rule is expected in fiscal year 1991.

Work continued on assisting ETA in publishing regulations for the Job Opportunities and Basic Skills Training (JOBS) Program under the Family Support Act of 1988. A final rule is expected to be published in early FY 1991.

The Division assisted ETA in developing a final rule to implement the JTPA Title V incentive bonus program for States which provide services to certain categories of individuals and which move the individuals off various assistance programs and into jobs. A final rule is expected to be published in early FY 1991.

The Division also assisted ETA in updating and streamlining the Job Corps regulations. A final rule was published on April 6, 1990, with an effective date of July 1, 1990, to coincide with the beginning of Program Year 1990.

Although the Comprehensive Employment and Training Act (CETA) has been repealed and replaced by the JTPA, numerous matters remain in which the Department is seeking to recover misspent CETA funds. In this area, the appellate courts continued to support the Department's efforts to recover grant funds that were not properly expended and a number of favorable decisions have been received.

In litigation under the JTPA, the Division worked closely with ETA in the award, administration and termination of JTPA grants for employment and training programs. Two of the principal cases that were litigated this year dealt with the right of subgrantees to obtain judicial and administrative review of actions of the Department under JTPA. *See County of Los Angeles v. U.S. Department of Labor*, 865 F.2d 1084 (9th Cir. 1989); *Northwest Pennsylvania Training Partnership Consortium (Northwest) v. U.S. Department of Labor*, Case No. 89-3670, U.S. App. Lexis 6987 (3rd Cir. 1990).

The Omnibus Trade and Competitiveness Act, (Pub. L. 100-418), made substantial amendments to the Trade Adjustment Assistance Program (TAA) under the Trade Act of 1974. The Division continued to work closely with ETA in the implementation of the amendments.

The program statute for the Disaster Unemployment Assistance program also was amended in 1988. The Division has continued to provide detailed legal advice in connection with the preparation of final regulations to implement the amendments.

The Division also has worked closely with ETA in the development of major regulatory packages in the areas of the implementation of the airline employee protective program, the confidentiality and conditions for disclosure of data collected by state unemployment compensation agencies and the development of a comprehensive set of administrative regulations for the unemployment insurance program.

Specialized assistance in the area of acquisition law (i.e., contracts and grants) was provided by the Division to contract and grant officers in the Office of the Assistant Secretary for Administration and Management (OASAM), in ETA, and in the

Office of the Assistant Secretary for Veterans' Employment and Training (OASVET). The Division also participated on the Department's Procurement Review Board, advised OASAM on rulemaking actions related to the Department of Labor rulemaking as part of a governmentwide final common rule implementing the requirements of the Drug-Free Workplace Act of 1988, Pub. L. 200-690, for drug-free workplaces under grants. The Division also assisted OASAM in publishing a governmentwide interim final common rule restricting lobbying by recipients of federal grants, contracts, loans, cooperative agreements, loan insurance commitments, and loan guarantee commitments entered into after December 23, 1989.

The Division continued to provide a broad range of legal advice services to the OASVET in such areas as training programs for veterans, the Disabled Veterans' Outreach Program (DVOP) and the establishment of employment and training programs for homeless veterans under the Stewart B. McKinney Homeless Assistance Act. With the assistance of this Division, OASVET developed a draft proposed rule to revise 20 CFR Chapter IX, the rule governing most DOL programs for veterans' employment and training.

Although the Department has no role in the enforcement of the Worker Adjustment and Retraining Notification Act (WARN), the regulations that were published in April, 1989 have come to play an important role in the implementation of the provisions of the Act and have supplied substantial guidance to the courts in interpreting the statute. Several significant WARN cases were decided during the past year. In all of the cases, the WARN regulations were followed by the courts.

Fair Labor Standards

During the fiscal year 1990, the Division engaged in a variety of appellate and district court litigation of significance to the Department's fair labor standards policies and programs.

Significant appellate litigation under the Fair Labor Standards Act (FLSA) included *Dole and EEOC v. Shenandoah Baptist Church*, 899 F.2d 1389 (1990), *petition for cert. denied*, 59 U.S.L.W. 3247 (U.S. Oct. 1, 1990) (No. 90-16), in which the

Fourth Circuit rejected defendants' principal arguments that Congress did not intend the FLSA to apply to church-operated schools and that application of the Act's minimum wage and equal pay provisions violated the First Amendment.

The Ninth Circuit, in *Dole v. West Extension Irrigation District*, 909 F.2d 349 (1990), affirmed the district court's determination that defendant could not rely upon the FLSA's overtime exemption for certain irrigation workers, because the employees in question did not work on a waterway exclusively used for supplying water for agricultural purposes.

In *Dole v. Odd Fellows Home Endowment Board*, 912 F.2d 689 (1990), the Fourth Circuit upheld the district court's conclusion that the Home, which provides care to Odd Fellows members or their families, was subject to the Act's coverage as an enterprise providing "care of the sick [or] the aged," which handled goods or materials that moved in interstate commerce.

The Eighth Circuit, in *Dole v. Tony and Susan Alamo Foundation*, 915 F.2d 349 (1990), rejected defendants' arguments in affirming the district court's conclusions regarding the award of back wages to certain employees, the non-exempt status of a claimed salaried employee, and the award of prejudgment interest.

In *Wilcox v. Terrytown Fifth District Volunteer Fire Department*, 897 F.2d 765 (1990), *petition for cert. denied*, 111 S. Ct. 256 (1990), the Fifth Circuit upheld the district court's conclusion that defendant volunteer fire department constituted a "public agency" within the meaning of 29 U.S.C. 203(x). As a consequence, the department was entitled to the exemption from the usual overtime requirements provided for public agencies engaged in fire protection activities by 29 U.S.C. 207(k). The Secretary as *amicus* supported the employees' appeal.

Significant appellate cases arising under the several employee protection or "whistleblower" statutes administered by the Secretary included *English v. General Electric Co.*, 110 S. Ct. 2270 (1990), in which the Supreme Court reversed the Fourth Circuit's decision which upheld the district court's dismissal of English's state tort action for emotional distress. The court of

appeals, like the district court, had held that the action was barred because it was preempted by section 210 of the Energy Reorganization Act, 42 U.S.C. 4251, its so-called "whistleblower" provision. The United States, as *amicus*, had argued in support of reversal, contending that English's claim had not been preempted. In its opinion, the Supreme Court held that despite the general federal preemption of matters affecting the nuclear regulatory area, the adjudication of emotional distress torts is too indirect and insubstantial to impede the purposes underlying preemption of this field.

In *Dole v. Hopple Plastics, Inc.*, 902 F.2d 33 (1990) (table), a case arising under the Consumer Credit Protection Act (CCPA), the Sixth Circuit, in a per curiam unpublished opinion, reversed the district court's judgment and remanded the case for further district court proceedings on the Secretary's claims for backpay and reinstatement for an employee discharged in violation of the CCPA.

There are several significant cases pending in the appellate courts. In *Pacific Merchant Shipping Association v. Aubry*, No. 89-55379, the Government as *amicus* is supporting the State of California's position before the Ninth Circuit that the State is not prohibited as a matter of statutory, admiralty, or constitutional law from enforcing its wage and hour standards to seamen and other maritime workers employed on vessels located off the California coast. The Secretary is seeking to overturn the district court's holding that the FLSA operates to preempt California from applying its law to the workers in question. In *Dole v. D.L. Harvey*, No. 90-2346EA, defendants have appealed to the Eighth Circuit from the district court's determination, based largely on *Dole and EEOC v. Shenandoah Baptist Church*, *supra*, that the FLSA applies to defendants' church-affiliated school. The district court denied defendants' constitutional attack on the Secretary's action and its efforts to claim exempt status for workers at the school.

Several significant "whistleblower" cases are pending, including *Adams v. Secretary of Labor*, No. 90-1747 (4th Cir.), in which the petitioner employee has challenged the Secretary's determination that section 210 of the Energy Reorganization

Act does not encompass allegations against contractors or subcontractors performing work at nuclear facilities operated by the Department of Energy. In *Maktal v. Secretary of Labor*, No. 90-4029 (5th Cir.), petitioner has challenged the Secretary's approval of a settlement agreement which petitioner claims was entered into under fraud or duress; respondent-intervenor asserts that the Secretary has no authority to disapprove settlement agreements.

Pending contract labor standard cases in the appellate courts include *Miree Construction Corp. v. Dole*, No. 90-7143 (11th Cir.), in which petitioner seeks to overturn a Wage Appeals Board ruling, affirmed by the district court, that limited Davis-Bacon credit for payments made by a contractor to an apprenticeship plan.

There have been a number of noteworthy decisions concerning the labor standards applicable to federal contracts. In *Building and Construction Trades Department v. Dole*, 29 WH Cases 1607 (D.D.C. 1990), the district court issued a decision lifting a 1982 injunction of Davis-Bacon Act regulations which would permit a wider use of semi-skilled "helpers" on Federal construction projects at wage levels lower than those of skilled journeymen.

The District Court for the District of Columbia, upon remand from the D.C. Circuit Court of Appeals, in the case of *Building Construction Trades Department, AFL-CIO v. McLaughlin*, 29 WH Cases 1542 (D.D.C. 1990), issued a favorable ruling upholding the validity of the Department's Davis-Bacon regulation which defines covered "construction" activity to include "the transporting of materials and supplies to and from the building or work by the employees of the construction contractor or construction subcontractor."

In *Danielson v. Dole*, 746 F. Supp. 160 (D.D.C. 1990), the district court denied plaintiff employees request for a writ of mandamus to compel the Secretary of Labor to comply with and enforce the Service Contract Act by determining back wage amounts due employees and requiring reimbursement from the contractors involved.

There has been a large volume of district court litigation concerning the Fair Labor Standards Act. On December 7, 1989, the District Court for the District of Columbia granted the Secretary's motion for summary judgment in *International Ladies' Garment Workers' Union, AFL-CIO v. Dole*, 29 WH Cases 948 (D.D.C. 1989). Plaintiffs brought suit against the Secretary to obtain review of the Department's final rule rescinding the total ban on homework in five industries (gloves and mittens; handkerchiefs; buttons and buckles; jewelry; and embroideries) and implementing instead a certification program that would allow the employment of homeworkers in those industries and in the knitted outerwear industry (as to which the ban had previously been lifted). The court held that, based on the record, the Department made a reasoned decision that a certification system would be superior to a total homework ban in enforcing the FLSA in the employment of homeworkers in the "little" industries. The decision was not appealed.

The Salvation Army brought legal action against the Department in *Salvation Army Hospital v. Dole*, No. 90-1273-A (E.D. Va.). The action sought a declaratory judgment to the effect that the beneficiaries of the program conducted in the Salvation Army's 117 Adult Rehabilitation Centers nationwide are not "employees" within the meaning of the FLSA, and that the application of the FLSA to the beneficiaries would be unconstitutional. It also sought a permanent injunction prohibiting the Department from enforcing against the Salvation Army any provision of the FLSA or of the regulations promulgated thereunder with respect to the beneficiaries, and a preliminary injunction prohibiting any enforcement action by the Department until this case is resolved. On October 12, the Department's motion to dismiss was granted on the basis that there had been no adverse agency action reviewable under the Administrative Procedure Act.

In *Dole v. Tony and Susan Alamo Foundation*, No. 77-2183, a case handled by the Dallas Regional Office, the United States District Court for the Western District of Arkansas on November 1, 1989, granted the Secretary's motion to adjudge defendant, Tony Alamo, in civil contempt of court for his

failure to comply with the previous judgments of the court entered on November 26, 1986, and May 30, 1989. The judgment of November 26, 1986, enjoined the Tony and Susan Alamo Foundation and Tony Alamo, individually, from withholding minimum wages and overtime compensation of \$113,636.94 and prejudgment interest of \$69,359.20, which the court found was due under the Fair Labor Standards Act to ten former employees of the Foundation. The subsequent partial judgment of May 30, 1989, enjoined the Foundation and Tony Alamo from withholding minimum wages and overtime compensation of \$31,802.74 and prejudgment interest of \$26,867.47, which the court found was due under the Act to three additional employees. The Department is continuing to seek back wages on behalf of large numbers of other employees.

The Regional Solicitors have experienced an increase in enforcement litigation on farm labor programs and have prosecuted several significant court actions. For example, in the Atlanta region, the Solicitor obtained two emergency preliminary injunctions under the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) to close down migrant worker housing camps in which the Wage and Hour Division had found serious health hazards including open sewage pits.

The Regional Solicitors have also experienced a significant increase in the volume of administrative litigation in the child labor area, due to the Wage and Hour Division's series of child labor strike forces and its administrative enhancement of civil money penalties (CMPs).

In the district courts, the Regional Solicitors are prosecuting a number of significant child labor cases. For example, the Fort Lauderdale regional office has filed suit against the Burger King Corporation, seeking an injunction which would affect the corporation's operations nationwide; the action is based on the employer's history of repeat violations of Reg. 3.

The Division assisted the Department of Justice in the defense of regulations promulgated jointly by the Secretaries of Labor and Agriculture to implement the replenishment agricultural worker (RAW) provisions of the Immigration and

Nationality Act, as amended by the Immigration Reform and Control Act.

The Division also supplied legal support to the Department in connection with various regulatory and legislative proposals.

Labor-Management Laws

In fiscal year 1990, the Division of Labor-Management Laws filed complaints in suits arising under the Labor-Management Reporting and Disclosure Act (LMRDA), defended the Secretary's determination not to sue under the LMRDA, rendered advice on legal issues, and participated in negotiated settlements for remedial elections of union officers. The Division also participated in litigation and provided advice on issues arising under the Civil Service Reform Act, the Vietnam Era Veterans' Readjustment Assistance Act (VEVRA), the Urban Mass Transportation Act (UMTA), the Airline Deregulation Act (ADA), the Redwood National Park Expansion Act (REPP), the Freedom of Information Act (FOIA), and the Equal Access to Justice Act (EAJA).

The Division provided legal advice to the Bureau of International Affairs on various statutes relating to international trade and investment and on matters pertaining to participation of the United States in the International Labor Organization. Finally, the Division offered advice and consultation on proposed legislation affecting these statutes and programs. A substantial portion of the Division's litigation during the year dealt with union officer elections under Title IV of the LMRDA.

There were several cases which successfully challenged elections of officers of international unions. The court directed a new election for an international executive board member when the union improperly denied a member's nomination for union office in violation of section 401(e) of the LMRDA. *Dole v. United Mine Workers of America, AFL-CIO* (D.D.C. Jan. 30, 1990).

In a case involving a large international union, the court ordered a new election for the entire union based upon proof

of fraud in that portion of the election conducted in Panama. *Dole v. Masters, Mates and Pilots* (D. Md. Aug. 1990).

One of the most important cases handled by the Division involved the mailing of campaign literature. The Court of Appeals for the Fourth Circuit, sitting *en banc*, adopted the Department of Labor's interpretation of section 401(c) of the LMRDA, an interpretation which is at odds with the decisions of the Third and Ninth Circuit Courts of Appeals. See *Donovan v. Metropolitan District Council of Carpenters*, 797 F.2d 140 (3d Cir. 1986) and *Marshall v. Provision House Workers Union, Local 274, Amalgamated Meatcutters and Butcher Workers*, 633 F.2d 1322 (9th Cir. 1980) (in both decisions the Department unsuccessfully advocated its interpretation of section 401(c)).

The duty imposed by section 401(c) is enforceable pre-election, by a candidate for union office in a private action, 29 U.S.C. § 481(c) or post-election, in an action brought by the Secretary of Labor, 29 U.S.C. § 482. Here, plaintiff-appellee, Brown, brought a private action to compel the defendant-appellant, labor union, to comply with his request for distribution of campaign literature. Based upon the Secretary's interpretation of section 401(c), Brown argued that the union was required to comply with his request for distribution if such request was reasonable.

The district court and a panel of the Fourth Circuit Court of Appeals adopted the Department's interpretation of section 401(c), and Brown prevailed. However, the union, citing conflict among the circuits, petitioned for rehearing *en banc*. Upon rehearing being granted, the Department entered the action as *amicus curiae* in order to defend its interpretation and to protect its role in the implementation and enforcement of the LMRDA. The favorable per curiam decision of the *en banc* court affirmed the previous panel decision thereby adopting the Department's interpretation of section 401(c). *Brown v. Lowen*, 857 F.2d 216 (4th Cir. 1988), *aff'd on reh'g en banc*, No. 88-2876 (4th Cir. Nov. 17, 1989). A petition for certiorari to the Supreme Court has been granted.

The Division also handled a number of cases arising under the Vietnam Era Veterans Reemployment Rights Act (VEVRA) (38 U.S.C. § 2021 *et seq.*). A significant victory under VEVRA was obtained from the Fourth Circuit Court of Appeals. This case represents the first decision by a court of appeals invalidating an employer policy restricting the number of employees who could participate in the active Reserve. The Fourth Circuit ruled, consistent with the Department of Labor's position, that a reasonableness standard should not be applied to individual leave requests under VEVRA. The Secretary of Labor appeared in this case as an *amicus curiae*. *Kolkhorst v. Tilghman*, No. 89-3501 (4th Cir. Mar. 14, 1990).

In the area of international affairs, the Division prepared annual reports on the Conventions (multi-national treaties) of the International Labor Organization (ILO) that have been ratified by the United States, including general reports on Convention No. 53 (Officers' Competency Certificates), Convention No. 58 (Minimum Age for Employment at Sea), and Convention No. 74 (Certification of Able Seamen), in addition to a detailed report on Convention No. 55 (Shipowners' Liability for Sick and Injured Seamen).

As part of the working group of the Tripartite Advisory Panel on International Labor Standards (TAPILS), the Division continued to provide legal research and drafting services to study the extent to which United States law and practice is consistent with the requirements of ILO Convention No. 105 (Forced Labor) and ILO Convention No. 138 (Minimum Age for Admission to Employment).

The Division has continued to provide extensive legal advice and assistance regarding the Department's program under the Support for Eastern European Democracy (SEED) Act to aid Poland and Hungary to develop free labor markets and related institutions. In this regard, the Division assisted in the preparation of Memoranda of Understanding with Poland and Hungary, provided advice regarding the numerous legal issues incident to soliciting contributions for the Department's program, including the tax deductibility of contributions, the

avoidance of conflicts of interest, and the extent of the Department's authority under the Act.

Late in the fiscal year, in connection with the call-up of reservists for Operation Desert Shield in the Persian Gulf, this Division both independently and in coordination with VETS and Department of Defense components, fielded numerous inquiries and devoted substantial time to issues related to the reemployment rights of reservists. The Division also continued to provide legal opinions and advice on an ongoing basis to assist in specific matters and in the general enforcement program in this area.

Inasmuch as Section 13(c) of the Urban Mass Transportation Act (UMTA) provides that the Department of Transportation may not make a mass transportation grant until the Department of Labor has certified that fair and equitable labor protective arrangements have been made to ensure that the mass transit employees are not adversely affected by the Federal financial assistance, the Division continued to devote a substantial amount of time providing legal advice to Department officials regarding these issues during FY 1990. The Division's in-depth research and analyses in this area at times have been instrumental to the Department's issuing certifications of employee protective arrangements.

Legislation and Legal Counsel

During fiscal year 1990, the Division of Legislation and Legal Counsel continued to work closely with Department officials in drafting proposed bills and related background materials, presenting the Department's views on pending legislation, and giving technical assistance to Congressional committees. The Division also performed a wide variety of "house counsel" functions, provided administrative legal services under the Freedom of Information and Privacy Acts, provided representation in connection with the Department's internal labor relations and personnel matters, assisted in the preparation of *Federal Register* documents, and furnished legal services to the Office of the Inspector General and the Bureau of Labor Statistics.

Throughout the year, the Division worked on the preparation and review of 66 statements to be delivered by Labor Department witnesses before Congressional committees. Department officials testified on important legislation addressing such matters as job training, retirement income policy, immigration, "whistleblower" protection, construction safety and health, unemployment compensation, and veterans' employment. Department officials also provided oversight testimony with respect to the administration of numerous Labor Department programs.

In addition, more than 150 reports to the Office of Management and Budget and Congressional committees were prepared on a broad spectrum of legislative proposals of interest to the Department. The Department also participated in the development of major pieces of legislation during FY 1990.

On April 23, 1990, the Department transmitted to Congress a bill drafted by the Division entitled, the "Veterans' Employment and Training Amendment of 1990." The bill would expand the definition of "eligible veteran" as it applies to the Departmental employment and training programs in Title 38 of the United States Code, so that employment services could be provided to military service personnel who have substantially completed their period of active service. Under the proposal those personnel who are within 90 days of separation could be provided a variety of employment and training services and information to assist them in their transition to the civilian economy.

On May 1, 1990, the Department transmitted to the Congress a bill drafted by the Division entitled "To amend the Stewart B. McKinney Homeless Assistance Act to extend the Job Training for the Homeless Demonstration Program, and for other purposes."

The Division continued to work closely with staff of the Senate Labor and Human Resources Committee and House Education and Labor Committee on legislation to comprehensively revise Title II of the Job Training Partnership Act, which would provide training and employment services to economically disadvantaged youth and adults.

The Division also provided technical assistance to the Congress in connection with legislation relating to adjustment assistance to dislocated workers, workplace literacy, and the unemployment compensation program.

The Division performed a wide variety of non-legislative "house counsel" functions. These functions included the furnishing of advice with respect to the Ethics in Government Act as well as other conflict-of-interest laws, orders and regulations. The Ethics Reform Act of 1989 and 1990 amendments thereto, as well as President Bush's Executive Order on Principles of Ethical Conduct for Government Officers and Employees, created new demands on the Division for legal assistance and training.

The Division's labor relations counsel staff represented the Department in employment-related litigation brought against the Department by its employees or their exclusive representative in the National Office. Most of the regional cases continue to be litigated by the regional offices. However, a few regional cases were also litigated by attorneys in the National Office. Cases were litigated before the Federal courts as well as before various administrative tribunals including, but not limited to, the Merits Systems Protection Board, the Federal Labor Relations Authority and the Equal Employment Opportunity Commission.

The Division continued to render general legal advice on questions relating to the Administrative Procedure Act, the Freedom of Information Act (FOIA), the Privacy Act (PA), the Federal Advisory Committee Act, the Paperwork Reduction Act, the Federal Register Act, and several related laws.

The handling of administrative appeals under the FOIA and PA remains a substantial ongoing responsibility. During fiscal year 1990, action was completed on over 200 appeals.

Additionally, the Division revised and republished its PA systems of records, a 90-page publication in the *Federal Register*. The Division also processed more than 750 subpoenas served upon Departmental officials arising out of private litigation in which the Department is not a party.

Finally, during the first part of fiscal year 1990, the Division continued to provide legal services for the Department's

Inspector General. However, pursuant to agreement between the two offices, the Secretary of Labor signed a Secretary's Order on January 31, 1990 authorizing the Inspector General to employ attorneys and support staff to provide the Office of Inspector General with legal advice and assistance necessary to carry out its authority under the Inspector General Act.

Mine Safety and Health

In the regulatory area, efforts were directed toward publication of several final and proposed rules. Final rules were promulgated implementing section 104(e) of the Federal Mine Safety and Health Act of 1977 (Mine Act) addressing the criteria and procedures for determining whether a mine operator has established a pattern of significant and substantial violations at a mine.

Final rules were also promulgated in the areas of approval regulations for multishot blasting units; roof control at underground coal mines, specifically in the quality of roof bolts used and the removal of permanent roof supports; roof control amendments specific to anthracite mines; and, the limited use of an alternative to the construction of berms and guardrails at metal and nonmetal mines. An interim final rule was promulgated that enables MSHA to include all operator violations of the Mine Act in the operator's history of violations used to calculate the proposed penalty for a significant and substantial violation.

Comprehensive proposed rules were published for diesel-powered equipment approval and use; coal mine electrical standards; electrical standards for metal and nonmetal mines; refuse piles and impoundments in underground coal mines; and, regulations amending standards on explosives in underground coal mines.

Significant resources were also committed to the drafting of the final rules dealing with the transportation, storage and use of explosive materials at metal and nonmetal mines; procedures relating to petitions for modification of a safety standard; approvals for cable splice kits; and, recordkeeping provisions. In addition, significant resources were devoted to proposed rules

addressing reporting of accidents and injuries at all mines; hazard communication at all mines; training of newly employed experienced miners and supervisors at all mines; and, revising the final draft on coal mine ventilation, as well as in drafting the proposed rule on electric cable approval regulations. Significant efforts were also made in revising noise control regulations and the approval regulations on conveyor belts and motor assemblies.

In the legal advice area, the Division assisted in the review of approximately 190 petitions for modification of safety standards and provided advice relative to approximately 150 Freedom of Information Act and Privacy Act matters.

During FY 1990, approximately 2,000 cases were filed with the independent Federal Mine Safety and Health Review Commission, including over 1,500 civil penalty cases assessed under Section 110 of the Mine Act and approximately 360 contests of withdrawal orders. The Commission also received approximately 60 new discrimination cases filed under Section 105(c) of the Mine Act. The majority of these cases were handled by the regional offices, but the Division continued to be responsible for cases requiring close coordination with the MSHA national office. Such cases included litigation arising from the September 1989 explosion at the Pyro Mining Company's William Station Mine. Division trial attorneys also handled all litigation pertaining to petitions for modifications of MSHA's standards. In addition, there was a significant increase in the number of cases reviewed by the Division's trial staff concerning assessment of civil penalties against individual officers and agents of mine operators under Section 110(c) of the Mine Act. Over 325 such cases were reviewed by the Division during FY 1990. A significant amount of time and resources were spent on analyzing MSHA's investigation of potential criminal violations, and 21 such cases were referred to the Department of Justice during the past fiscal year.

During the past year, Division attorneys have been involved in assisting the accident investigation teams for multiple-fatality explosions at Pyro Mining Company's William Station Mine in September 1989, and at the Granny Rose Mine in July 1990.

Assistance on these cases included helping to write the accident investigation reports, reviewing drafts of citations and orders issued as a result of the accidents, and preparing MSHA investigators for witness interviews.

Division attorneys obtained highly favorable settlements in two important cases concerning major mine disasters. In the litigation arising out of the Wilberg Mine fire, the penalty aspects of the cases were settled for \$95,000, representing approximately 90 percent of the proposed penalty assessment and one of the largest monetary settlements under the Mine Act. Also, the civil penalty litigation arising from the Greenwich Collieries explosion was settled for \$42,000, representing 80 percent of the maximum possible penalty assessed against the mine operator.

The Division's appellate workload before the circuit courts of appeals and the Commission occupied a substantial portion of the Division's resources. The courts of appeals issued decisions in several major cases during the fiscal year. In *Utah Power & Light Co. v. Secretary of Labor*, 897 F.2d 447 (10th Cir. 1990), the Tenth Circuit affirmed a Commission decision and upheld the Secretary's position that Section 103(f) of the Mine Act affords miners the right to select a non-employee as their "walkaround" representative for purposes of accompanying MSHA inspectors on physical inspections of mines.

In a case involving the Section 105(c) discrimination provisions of the Mine Act, the D.C. Circuit upheld the Secretary's position that the owner of a mining company was liable for conditioning an offer to rehire a wrongfully discharged miner on the miner's continuing to engage in unsafe practices. *Secretary of Labor ex rel. Keene v. Mullins*, 888 F.2d 1448 (D.C. Cir. 1989).

In *Coal Employment Project v. Dole*, 870 F.2d 662 (D.C. Cir. 1989), the D.C. Circuit held that MSHA has broad discretion to implement its civil penalty assessment responsibilities.

Occupational Safety and Health

The Division of Occupational Safety and Health provided

extensive assistance to the Occupational Safety and Health Administration (OSHA) in the area of standards development and promulgation. Final rules were issued addressing a large number of safety and health concerns. Final rules were issued for asbestos, lead, trenching and excavations, use of hazardous substances in laboratories, electrical safety work practices, and grain handling, among others. All of these final rules were developed with significant input from the Division.

In addition to promulgating these final rules, OSHA issued numerous new standards proposals and had many other proposed and final rules under development. New proposals were issued on cadmium, asbestos, butadiene, walking/working surfaces, fall protection equipment, vehicle safety, process safety management, and certification of training for hazardous waste operations. Work continued during the fiscal year on developing final rules for lift-slab construction, confined spaces, logging, ladders and scaffolds in construction, and methylenedianiline (MDA). Informal public rulemaking hearings, in which OSHA was represented by attorneys from the OSH Division were held in a record number of proceedings.

In the enforcement area of appellate litigation, a number of significant decisions were issued by the courts of appeals during FY 1990.

With respect to enforcement cases, the appellate courts have continued to accept OSHA's arguments that it has a relatively low burden to establish probable cause for an administrative inspection, and that employers' rights to challenge the validity of OSHA inspection warrants are fairly narrowly circumscribed.

In a significant case, the Seventh Circuit issued the first appellate decision to address the level of evidence necessary for the Secretary to establish specific probable cause that ergonomic hazards may exist in a workplace. *In re Inspection of Midwest Instruments Co.*, 900 F.2d 1150 (7th Cir. 1990).

The Division had somewhat more mixed results defending citations issued by OSHA. One successfully litigated case arose out of the Medical Removal Protection (MRP) provisions of OSHA's 1978 Lead Standard, in which the Third Circuit reversed a Commission order vacating a citation on the ground

that it would be unfair to penalize an employer for reliance on the Commission's decision limiting the scope of the MRP provisions, during the brief period before that decision was reversed. The court said that the Commission order allowed a noncomplying employer to be "unjustly enriched" at the expense of the employee who the standard was intended to protect. *Dole v. East Penn Mfg. Co.*, 894 F.2d 640 (3d Cir. 1990).

The Tenth Circuit vacated a citation for allowing employees to use respirators that did not fit well enough to protect them on the ground that the Commission's interpretation of the relevant standard as not requiring replacement of improperly fitting respirators was entitled to judicial deference. The Supreme Court has since granted certiorari to resolve the conflict between the circuits as to whether the Secretary's or the Commission's interpretations of the OSH Act and its standards is entitled to deference. *Dole v. OSHRC (C.F. & I.)*, 891 F.2d 1495 (10th Cir.), *petition for cert. granted*, 110 S. Ct. 3235 (1990).

The courts of appeals also took significant action on a number of OSHA rulemaking issues. In the Grain Handling Standard case, the Fifth Circuit rejected union and industry objections to the manner and pace of OSHA's response to the court's 1989 decision and affirmed OSHA's revised cost estimates for priority-area housekeeping. *National Grain & Feed Ass'n v. OSHA*, 903 F.2d 308 (5th Cir. 1990).

In October 1989 the District of Columbia Circuit denied, in large part, union requests that the court order OSHA to resolve outstanding Asbestos Standard issues immediately and without further rulemaking. *Building and Constr. Trades Dep't, AFL-CIO v. Secretary of Labor*, No. 86-1359 (D.C. Cir. Oct. 30, 1989).

In a case in which the International Chemical Workers and Public Health Research Group sought a one-year deadline for issuance of a cadmium standard, the District of Columbia Circuit allowed OSHA the two years it considered necessary. *In re International Chem. Workers Union, et al.*, No. 89-1357 (D.C. Cir. Feb. 12, 1990).

In a challenge to OSHA's decision not to issue an emergency temporary standard for smoking, the District of Columbia Circuit agreed to hold the case in abeyance while

OSHA considers whether to seek more information about regulating workplace smoking. *Action on Smoking and Health v. OSHA*, No. 89-1656 (D.C. Cir. July 18, 1990).

A multi-party challenge to OSHA's comprehensive Air Contaminants Standard was set for briefing in the Eleventh Circuit. *AFL-CIO et al. v. OSHA*, No. 89-7185 et al. (11th Cir. Feb. 27, 1990). As a result of settlements and voluntary withdrawals, 19 of the 29 challenges have been dropped.

In the Lead Standard case, the District of Columbia Circuit lifted a 10-year old stay of the 50 mg/m³ engineering limit for airborne lead for nearly 40 industries. *United Steelworkers of Am. v. Secretary of Labor*, No. 79-1048 (D.C. Cir. Mar. 8, 1990).

Two challenges to agency action regarding the Hazardous Waste Standard were also dismissed. A suit in federal district court to prohibit OSHA from characterizing certain interim Hazardous Waste Standard training violations as *de minimis* was dismissed for lack of jurisdiction. *Laborers' Int'l Union v. Scannell*, No. 89-3221 (D.D.C. Feb. 15, 1990). And in *AFL-CIO v. OSHA*, 905 F.2d 1568 (D.C. Cir. 1990), the court held that, contrary to longstanding practice, the statutory period for filing a challenge to an OSHA standard expires on the 59th, not the 60th day after promulgation. The petition in this case was filed on the 60th day.

The Division obtained a record number of decrees under Section 11(b) of the Act, which authorizes summary issuance of enforcement orders in the courts of appeals based on uncontested or otherwise final review: *Friction Division Prods.*, *Morysville Body Works*, and *H&H Industries* in the Third Circuit; *Haynes Lumber* and *Hale Manufacturing* in the Fifth Circuit; and *Chicago Modern Plating* in the Seventh Circuit.

With respect to regional trial litigation, the Occupational Safety and Health Review Commission had a quorum for less than half of fiscal year 1990. Although the Commission decided few cases in fiscal year 1990, it added over 40 cases to its review docket, on a wide variety of issues, in response to review petitions filed by employers, employees, and OSHA.

A record number of cases were referred by the Department to the Department of Justice for possible criminal prosecution--

13 in all. For example, a grand jury has indicted S.A. Healy Company and several company officials in connection with a fatal tunnel explosion during work being performed for the Milwaukee Metropolitan Sewerage District.

The Division's Egregious Case Litigation Section, established to administer OSHA's program of enhanced penalties through violation-by-violation citations, has provided significant legal support to OSHA and assistance to SOL regional offices in "egregious" OSHA cases. Substantial assistance is routinely provided to OSHA in pre-citation case screening, and the Division is frequently involved in intensive pre-trial preparation of the cases. All settlements are coordinated at the national level through the Egregious Case Litigation Section, and many negotiations are personally conducted by attorneys in the Division. For example, the screening and preparation of the \$5.6 million *Phillips 66* refinery explosion case and the \$7.5 million *USX* case (Fairless Hills and Clairton Works), the two largest cases in OSHA history, as well as the multi-phase enforcement approach taken in *Friction Division Products* (OSHA's first health imminent danger case) and *Interstate Lead Co.*, were coordinated and in part litigated by attorneys in this Division. The favorable settlements obtained in *Chrysler Corp.*, *The Budd Co.*, *Simpson Paper Co.*, and *John Morrell Co.*, as well as in other major cases were negotiated by Division attorneys. The total dollar value of penalties collected in these cases was over \$3.5 million in FY 90. Intensive settlement negotiations have also been ongoing in several major cases during the final quarter of the fiscal year. A prime feature of these settlement agreements has been corporate-wide abatement of the cited working conditions, and agreement by the employer that OSHA may enforce the terms of the settlement directly in the courts of appeals.

A number of administrative law judge decisions have been issued in egregious cases. Currently there are six cases pending on appeal to the 3-member Commission.

Plan Benefits Security

During the fiscal year the Division of Plan Benefits Security

received several favorable court rulings pursuant to the Employee Retirement Income Security Act of 1974, as amended, (ERISA), successfully resolved a number of other cases by judicially entered consent order, and filed several significant enforcement actions.

On June 29, 1990, the Secretary obtained a judgment in *Dole v. Lundberg*, No. CA3-88-2470-D (N.D. Tex.), requiring the trustees of the pension plans of Lundberg Industries of Dallas, Texas to restore \$2.7 million in plan assets which were improperly loaned to the company through a third party. This restitutionary judgment was the result of a partial summary judgment granted to the Secretary on the issue of liability.

In *Dole v. The Graniteville Corp.*, No. 1-86-937-8 (D.S.C.), on November 27, 1989, the district court issued an opinion denying the defendants' motion for summary judgment. The Secretary had brought this action against the fiduciaries of the Graniteville Company Employee Stock Ownership Plan (ESOP) for failure to enforce an "irrevocable commitment" made by the company to pay the ESOP an amount equal to surplus funds to be recouped by the company upon termination of two pre-existing pension plans.

In *Schwab v. U.S. Department of Labor*, 12 Employee Benefits Cas. (BNA) 2190 (W.D. Mo. 1990), the district court upheld the Secretary's right of access under the Right to Financial Privacy Act (RFPA) to the records of a plan sponsor, even if customer financial records are intermingled with those records, so long as both are relevant to a legitimate law enforcement inquiry.

A large number of other cases were resolved by consent decrees. In *Dole v. Shearson Lehman Hutton Inc., et al.*, No. 89 CV 547, (N.D.N.Y.), the five-claim complaint alleges that two brokerage houses, five investment management firms, and ten trustees and the Executive Administrator of three New York State Teamster funds committed numerous violations of ERISA in connection with the funds' investments. Between December 1989 and September 1990, settlement agreements and consent orders were entered with the two brokerage firms and four of the five investment managers. Over \$3 million was agreed to be

paid, including \$2 million from Shearson Lehman Brothers (formerly Shearson Lehman Hutton Inc.). Litigation continues against the remaining corporate defendant and individual defendants.

In *Dole v. Hansbrough*, No. 89-0798 (D.D.C.), on September 24, 1990, the court entered a settlement agreement and order in which Dart Group Corporation agreed to pay \$2.7 million to the Dart Group Stores Employees' Profit Sharing Plan ("New Plan") to settle the Secretary's claims of ERISA violations by Dart Group and the trustees of the Dart Drug Corporation Employees' Profit-Sharing Plan ("Dart Group Plan"), arising out of the transfer of assets from the Dart Group Plan to the New Plan. The transfer occurred in connection with the 1984 leveraged buyout of the Drug Store Division of Dart Group by its management. Litigation continues against the remaining defendants.

In *Dole v. Tower Asset Management, Inc., et al.*, No. 87-1492 (S.D.N.Y.), pursuant to an agreement between the Department and the Masters, Mates & Pilots Pension Plan and Individual Retirement Account Plan (the "Plans"), the court entered an order on September 18, 1990, appointing an Independent Fiduciary to manage those remaining assets of the Plans that were previously managed by Tower Asset Management, Inc. In its complaint, the Department alleges, among other things, that the Plans' trustees imprudently retained Tower as an investment manager and imprudently monitored Tower subsequent to its selection. Tower engaged in multiple prohibited transactions, investing the Plans' monies in private placements, many of which were start-up companies. Tower also invested monies in shipping companies that then entered into agreements resulting in the ships being manned by members of the Masters, Mates & Pilots Union. These investments resulted in large, multi-million dollar losses to the Plans. The litigation is continuing.

On December 7, 1989, settlement negotiations were successfully concluded in *Dole v. Eastern Air Lines, Inc.*, No. 89-2729 (S.D. Fla.) with respect to a claim against Eastern Air Lines for its allegedly having violated ERISA's provisions (known as "COBRA") requiring that employees must be

provided with an opportunity to continue coverage under their employer's health benefits plan for prescribed periods of time after the coverage would have otherwise terminated as a result of certain "qualifying events," such as layoffs.

On February 21, 1990, a consent judgment was entered in *Dole v. Dayton-Hudson Corp.*, No. 89-1909Z (D. Mass.), which orders reimbursement of uninsured medical expenses incurred by the employees and orders compliance with ERISA's COBRA requirements. This law suit was filed on August 31, 1989 and is the first brought by the Secretary under the COBRA amendments to ERISA. In the complaint, the Department challenged the employer's refusal to offer continued group health benefit coverage to four employees whom the company claims were fired for "gross misconduct."

During the fiscal year, a number of new cases were filed to enforce ERISA's fiduciary responsibility provisions. For example, in *Dole v. Valley National Bank*, No. 89 Civ. 8361 (PKL) (S.D.N.Y.), on December 18, 1989, the Secretary filed an action against Kroy, Inc., Valley National Bank of Arizona, and others in connection with the participation of the Kroy Employee Stock Ownership Plan in the leveraged buyout of Old Kroy, Inc. The complaint alleges that the trustee, Valley National Bank, breached its fiduciary duties to the ESOP by causing the plan to approve the purchase of shares of Kroy for \$5.92 per share when other investors were paying \$1.125 per share for substantially comparable shares of stock. The ESOP allegedly paid considerably more than the fair market value of the stock to facilitate the buyout of Kroy.

In areas other than litigation, the Division participated in several important regulatory and interpretative projects, under both ERISA and the Federal Employees' Retirement System Act (FERSA). During the fiscal year, the Department issued a final regulation that describes the procedures for filing and processing applications for exemptions from the prohibited transaction provisions of ERISA, the Internal Revenue Code of 1986, and FERSA. 55 FR 32836 (Aug. 10, 1990).

The Department published interim and proposed regulations relating to civil penalties under section 502(l) of ERISA. The

interim regulation sets forth the procedures for the assessment of penalties under section 502(l) against fiduciaries who breach fiduciary responsibilities under part 4 of title I of ERISA, or any other person who knowingly participates in such a breach, and for petitioning the Secretary to exercise his or her discretion to waive or reduce the mandated assessment. The proposed section 502(l) substantive regulation defines certain terms under section 502(l) of ERISA. 55 FR 25284 (June 20, 1990).

The Department issued a final regulation which prescribes the amount of bonds required under FERSA for fiduciaries and other persons who handle funds or other property of the Thrift Savings Fund. 54 FR 53607 (Dec. 29, 1989).

The Division worked closely with the Pension and Welfare Benefits Administration in finalizing amendments to Prohibited Transaction Exemption 78-19 that permits insurance company pooled separate accounts, in which employee benefit plans have an interest, to engage in certain transactions, provided specified conditions are met. 55 FR 2891 (Jan. 29, 1990).

The Division was involved in several other significant projects during the fiscal year. These included: (1) developing the analytical basis for an advisory opinion which indicated that plans may enter into performance fee arrangements under certain specified circumstances, (2) participating in the development of an interpretive position regarding the application of the prohibited transaction provisions of ERISA to a voluntary contribution by an employer of real property to an employee stock ownership plan, and (3) assisting in the development of an interpretive position regarding the application of certain state laws to multiple employee welfare arrangements.

Special Appellate and Supreme Court Litigation

In fiscal year 1990, the Division continued to perform its function of providing centralized litigation and review of all Supreme Court matters in which the Department is a party or has an interest, as well as litigation of court of appeals cases

especially assigned because of the importance, novelty or difficulty of the legal issues.

During the past Term, the Division won a number of important victories in the Supreme Court. In the pension area, the Court issued a favorable decision in *PBGC v. LTV Corp.*, 110 S. Ct. 2668, upholding the PBGC's authority to restore terminated pension plans as a remedy for the adoption of abusive "follow on" plans. Also, in a unanimous decision that closely tracked our arguments, the Court held in *Guidry v. Sheet Metal Workers*, 110 S. Ct. 680, that the anti-alienation provision of ERISA bars a union from imposing a constructive trust on the pension benefits of a union official to collect a judgment debt arising from his embezzlement of union funds.

In the emerging area of whistleblower protection, a unanimous Court agreed with our argument in *English v. General Electric Co.*, 110 S. Ct. 2270, that a laboratory technician at a nuclear facility who claimed that she was fired for making safety complaints may pursue her state-law action against her employer for intentional infliction of emotional distress, despite the extensive federal regulation of the nuclear field and the existence of a federal remedy for nuclear whistleblowers.

The Department also prevailed in several significant employee benefit cases. In *C&O Ry. Co. v. Schwalb*, 110 S. Ct. 381, the Court agreed with our argument that employees injured on a covered situs while cleaning and maintaining machinery that is essential to the loading or unloading process are engaged in covered maritime employment entitled to benefits under the Longshore and Harbor Workers' Compensation Act. And in *United States Department of Labor v. Triplett*, 110 S. Ct. 1428, the Court at our urging reversed a decision of the West Virginia Supreme Court of Appeals that had held that the system for awarding claimant's attorney fees under the Black Lung Benefits Act violated due process by depriving claimants of access to counsel. The Court held that the state court had no basis for concluding either that claimants are unable to retain qualified attorneys or that the Department's fee system causes any such inability.

The Supreme Court issued decisions in two other cases in which we participated. In *Dole v. Steelworkers*, 110 S. Ct. 929, a case arising out of OSHA's revised hazard communication standard, the Court held that the Office of Management and Budget has no authority under the Paperwork Reduction Act to review regulations mandating disclosure by regulated entities directly to third parties. The government had argued that OMB had a right to review such information collection requests, but as a result of the Court's decision, the OMB-disapproved provisions of the hazard communication standard continue in effect. In *Breining v. Sheet Metal Workers*, 110 S. Ct. 424, the Court, contrary to our argument, held that a union's refusal to refer a union member to jobs through the hiring hall because of his political opposition to the union leadership did not give rise to a claim for improper discipline under the Labor-Management Reporting and Disclosure Act.

Finally, the Court granted our request to review *Dole v. OSHRC*, No. 89-1541, in which it will decide whether the Secretary of Labor's reasonable interpretation of an OSH Act regulation is entitled to deference, notwithstanding the OSHRC's contrary reasonable interpretation. This decisive issue has divided the courts of appeals for many years.

The Division also enjoyed a very successful year in the courts of appeals: the courts adopted the position advocated by the Department in every case except two, and at least one of those cases is likely to be reviewed by the Supreme Court.

In a long-awaited decision under the Black Lung Benefits Act, the Tenth Circuit held that a miner who files a second claim for benefits, more than one year after final denial of his earlier claim, is entitled to a complete ALJ hearing on such a "duplicate claim." The court in *Lukman v. Director*, 896 F.2d 1248, thus rejected the contrary ruling of the Benefits Review Board that such claims could be summarily denied without an ALJ hearing unless that claimant could prove a material change in conditions to an OWCP deputy commissioner.

In the growing area of veterans reemployment, the Ninth Circuit in *Imel v. Laborers Pension Trust Fund*, 894 F.2d 1327, held that a multi-employer pension fund is required to give

credit under the Veterans Reemployment Rights Act for military service to a veteran who was inducted while working for a contractor covered by the pension plan and who after discharge was reemployed through the hiring hall with another contractor covered by the plan. This is the first case that has presented the rights of a returning veteran vis-a-vis a multi-employer pension plan. In *St. Vincent's Hospital v. King*, 897 F.2d 1282, however, the Eleventh Circuit held that a three-year leave request was per se unreasonable, and thus did not trigger the protections of the Act. The Department is seriously considering seeking Supreme Court review in this case.

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Office of the Assistant Secretary for Policy

In FY 1990, the Office of the Assistant Secretary for Policy (OASP) continued its primary role to coordinate the policy review and decision-making process for the Department of Labor. The major vehicle in support of this effort was the Policy Review Board (PRB). Chaired by the Assistant Secretary for Policy, the PRB provides an open forum for review and discussion of important issues affecting the entire Department.

A significant activity in FY 1990 was the introduction by the Secretary of a Goals and Objectives Program for the entire Department to serve as a management tool to measure performance and to monitor progress throughout the year. The goals and objectives, which deal with such issues as training, safety in the workplace, pension policy, enforcement efforts, empowerment of the individual, and technical assistance to Eastern Europe, were broken down into a detailed, month-by-month map of steps towards achievement. OASP is responsible for coordinating both the implementation and the ongoing administration of the program.

OASP continued to lead the Department's efforts to address workplace substance abuse. It developed a comprehensive strategy to promote the establishment of a five-part substance abuse program in all workplaces. The employee assistance grant program continued into its second year with funding of almost \$1 million in grants to 22 employers or employer groups. A new publication, "An Employer's Guide to Dealing with Substance Abuse," was developed to be distributed by Labor Department field staff during worksite visits as well as by the National Clearinghouse on Drug and Alcohol Information. A contract to develop a prototype electronic substance abuse information system was awarded. In addition, OASP continued to provide leadership to several federal groups dealing with workplace substance abuse.

An additional major effort implemented by OASP was the Secretary's mentoring initiative--a volunteer program that

challenges business and labor to dedicate 10 percent of their workforce to act as mentors to youth at risk of dropping out of school. The major focus of the program was to establish a one-to-one relationship between a responsible, caring adult from the business or labor community and a student in need of help. The overall objective was to reduce the student dropout rate by increasing the number of volunteers to mentor at-risk youth.

Office of Program Economics

The Office of Program Economics devoted a significant portion of its time during FY 1990 to immigration issues. These included the development of new immigration-related policy and the implementation of Labor Department responsibilities under two previously enacted statutes--the Immigration Reform and Control Act of 1986 (IRCA) and the Immigration Nursing Relief Act of 1989 (INRA). The major policy thrust in the immigration area during FY 1990 dealt with proposals for revising the legal immigration system. The Assistant Secretary for Policy served as the Department's spokesperson in Administration discussions on legal immigration reform. The Office, in conjunction with ILAB staff, provided the key staff support to the Assistant Secretary in this policy process, which resulted in an immigration reform bill acceptable to the Labor Department.

The Office continued to take the lead for the Department in estimating changes in the labor supply for seasonal agricultural work from FY 1990 through FY 1993. These estimates of labor supply, in conjunction with USDA estimates of labor demand, will be used, as required by IRCA, to estimate shortages of seasonal agricultural workers during each of these fiscal years. These annual shortage estimates will determine whether or not additional immigrant workers will be admitted into the United States during the four-year period to perform seasonal agricultural work. This process resulted in annual shortage estimates of zero for both FY 1990 and FY 1991.

Departmental estimates of changes in labor supply for seasonal agricultural work are based on surveys of existing farm workers and of the rural unemployed, both conducted by the

Office. The survey of existing farmworkers, the National Seasonal Agricultural Service Farm Worker Survey (NSFS), involved interviewing about 10,000 farmworkers over a 4 year period. It will be conducted on a quarterly basis through FY 1992. The survey of rural unemployed, the Potential Agricultural Worker Survey (PAWS), involves interviewing about 1,100 unemployed persons in rural areas who apply for services in local ES offices.

Other activities undertaken by the Office in the immigration area included:

- Assisting the Employment and Training Administration (ETA) in the development of revised regulations for the H-2A program, which provides for the admittance of non-immigrant aliens for temporary employment in agriculture.

- Assisting ETA and the Employment Standards Administration in the development of regulations needed to implement the Immigration Nursing Relief Act of 1989, which provides new standards that must be met before employers can hire non-immigrant alien nurses.

- Taking the lead in planning for the Secretary's Advisory Committee (mandated by INRA) to advise the Secretary on the overall effects of the Act.

The other major focus of the Office in FY 1990 was the implementation of the Secretary's Workforce Quality Agenda. Announced in October 1989, this agenda contained a number of activities designed to address the need to improve the overall quality of the American workforce and close the gap between workers' skills and emerging job requirements. The Office had responsibility for monitoring and coordinating the implementation of this agenda throughout the Department, including establishment of the Workforce Quality Clearinghouse by the Women's Bureau and the undertaking of a variety of activities by ETA, such as the Secretary's Commission on Achieving Necessary Skills. Further, the Office assumed direct responsibility for implementing two significant components of

this agenda--the Secretary's LIFT America Awards and the Secretary's National Mentoring campaign.

As a result of the Office's effort, Secretary Dole presented the first annual LIFT (Labor Investing For Tomorrow) Awards on September 19, 1990, in recognition of exemplary efforts to upgrade the quality of the workforce. Sixteen awards were divided among four categories: business-school partnerships, school-to-work transition programs, employee training programs, and employee worklife programs. Winners included employers, unions, employee groups, educational organizations, trade associations and community groups.

Similarly, the Office was instrumental in implementing the Secretary's challenge to business and labor to devote 10 percent of their employees to the mentoring of at-risk youth. The Office took the lead in designing and implementing, in conjunction with the National Media Outreach Center (NMOC), a system where: (1) the Secretary has a pledge card to distribute at appearances before business groups; (2) business requests for more information on mentoring will be systematically met by the NMOC; (3) the results of these contacts will be tracked and evaluated; and, (4) these evaluation results will be discussed at a 1991 follow-up conference.

Office of Regulatory Economics

The Office of Regulatory Economics acts as the principal staff for the PRB, with special emphasis on regulations and legislation concerning occupational safety and health, wage and hour standards, pension, health, and welfare benefits programs, workers' compensation, and nondiscrimination and affirmative action programs.

The Office is responsible for the development, tracking, and execution of the Department's portion of the Regulatory Program of the United States and the Semi-Annual Regulatory Agenda. In doing this, it works closely with Labor Department agencies and OMB staff. Since the Department is the second largest regulatory agency in the Federal Government, this involves dealing with approximately one hundred significant regulatory initiatives and a number of more minor ones.

In each case, the Office is responsible for ensuring that: 1) there is adequate justification for each intended regulatory action; 2) regulatory proposals include valid risk assessment, regulatory impact, paperwork and other appropriate special analyses; 3) materials are ready for scheduled meetings of the PRB; 4) issues needing discussion are brought to the attention of PRB members; 5) decisions of the Secretary and PRB are implemented; and, 6) DOL agencies are assisted as needed in gaining OMB and other approvals.

Among the specific regulatory items which came to the Policy Review Board during the year and on which staff provided significant support were:

- **Safety and Health** - Final regulations were issued dealing with: occupational exposures to hazardous chemicals in laboratories; the design and use of lift slabs in construction; the handling of court-ordered reconsideration of aspects of the asbestos standard; the use of roof bolts and roof, face and rib supports in underground mining; special enforcement provisions for mine operators with a pattern of violations; electrical safety work practices; and, mine safety standards for berms and guardrails.

More preliminary work was performed on regulatory proposals dealing with: training programs for hazardous waste operations; exposures to cadmium and asbestos (including tremolite, anthophyllite and actinolite); walking and working surfaces; fall protection systems; vehicle safety; hazardous materials handling; 1,3-butadiene; the approval of electric cables and splice kits for use in mining; explosives and blasting in mining; and, some reconsiderations of the hazard communication standard.

- **Employment Standards** - Interim final regulations were issued under the Fair Labor Standards Act (FLSA) amendments of 1989 to implement the provisions for a training wage and for the effect of the Act in Puerto Rico. Final regulations were issued on the employment of learners under the FLSA and revisions were made to claims procedures under the Longshore and Black Lung workers' compensation programs.

In addition, proposals were issued on: revision of some of the child labor hazardous orders under the FLSA; the use of medical fee schedules under the Federal Employees' Compensation Act; and the enforcement of provisions related to the employment of nonimmigrant, alien nurses by health care facilities.

■ **Pensions** - Final regulations were issued on procedures for filing and processing applications for exemption from the prohibited transaction provisions of the Employee Retirement and Income Security Act (ERISA), the Federal Employee Retirement Security Act, and the internal revenue code. Interim final rules and proposals dealing with the new 502(l) penalty provisions under ERISA were also issued.

In addition to the direct work on regulations completed or proposed, the Office helped bring together various agencies in working on other regulatory projects. These included working with the National Institute for Occupational Safety and Health on bloodborne disease, the development of guidelines for ergonomics in the red meat packing industry, and the use of respiratory devices to prevent hazardous health exposures. In addition, the Office represented the Department on the Committee on Interagency Radiation Research and Policy Coordination which reports to the President's Science Advisor on all issues related to radiation exposures and possible compensation.

Besides regulatory work, the Office worked on many legislative and other issues. Among the most important legislative issues were: child care; nondiscrimination provisions for the disabled; parental and medical leave bills; general whistleblower proposals; health care proposals; and, a number of pension-related issues such as asset reversions and Departmental proposals to improve enforcement, portability and reporting.

Perhaps the most important special project of the Office was to coordinate the development of the Secretary's report on Labor Department enforcement activities. This report was designed to review what all Departmental agencies are doing

and to outline steps to improve enforcement, e.g., the experimental "glass ceiling" initiative of the Office of Federal Contract Compliance Programs. Related to it were efforts to improve penalty structures of various agencies, to use criminal sanctions when appropriate, and to better coordinate agency efforts. This latter includes contracting for the development of coordinated enforcement data systems and for new memoranda of understanding between Departmental agencies for cross-training of personnel and referrals of possible violations.

Finally, the Office provided support for the Secretary in her role as a trustee of Social Security and Medicare-related trust funds and as chairperson of the Board of Directors of the Pension Benefit Guaranty Corporation. Of particular importance to the role as trustee is the work done with the Department of Health and Human Services on the key assumptions underlying the Social Security Trust Fund estimates.

Office of Economic Policy Analysis

The Office provided staff support for policy formulation and program implementation in the areas of labor-management relations, international labor affairs, labor-management standards and related labor market developments. Collective bargaining and industrial relations were the primary issues upon which most interest was focused, but a broad array of economic issues were dealt with. In addition, the Office was instrumental in coordinating and monitoring the progress of the Secretary's Goals and Objectives Program.

The Office continued to oversee and coordinate the Department's Information Collection Budget process, as mandated by OMB. This included analysis and review of the Department's initiatives to reduce paperwork burden hours in its largest regulatory programs. Staff also monitored efforts in the Congress to reauthorize the Paperwork Reduction Act, with particular focus on how the Act would affect the Department's rulemaking procedures.

The Office continued to follow the issues of U.S. international competitiveness and productivity. Because increases in productivity are, to a great extent, dependent upon

improvements in the quality and utilization of human resources, labor policy issues were examined carefully for their ramifications in this context.

The Office provided staff support for the Coal Commission, which was created on March 12, 1990, to focus on health care issues arising from the 1950 and 1974 United Mine Workers of America Benefit Plans and the effects of resolving these issues on the coal industry as a whole.

The Office also continued to represent the Department on the Local Employment Initiative Project of the Organization for Economic Cooperation and Development (OECD). It has been an ongoing activity, with semi-annual meetings held in Paris. The project analyzes and reports on various local employment-generating programs in use within the OECD member countries and provides entrepreneurial assistance and information to promote job generation at the local level.

Office of Research and Technical Support

In FY 1990 the Office of Research and Technical Support provided diverse policy and program support to OASP and to the Office of the Secretary. This included internal and contract research, computer support, and economic and historical analysis. The Office analyzed economic and demographic data in support of program and policy analysis. While analysis of labor market data received particular attention, a broad range of real and financial data were closely monitored. This provided for in-depth analysis of diverse economic data on a timely basis. The Office provided detailed data and analysis on numerous issues, including minimum wage, mandated benefits, and dislocated workers.

The Office provided economic, technical and analytical support on a number of policy issues and initiatives, including the Parental and Medical Leave Act, the Clean Air Act, the listing of the Northern Spotted Owl as a threatened species, and the National Energy Strategy. The Office refined the Regulatory Tracking System to run on the OASP local area network and developed databases for the Departmental Task Force on Workplace Substance Abuse and for the Secretary's Goals and

Objectives Program. Also, the Office provided support for the Secretary in her role on the Social Security Board of Trustees.

The Office obligated approximately \$5.5 million to provide contractual support addressing the Secretary's policy goals and OASP programs. The largest amount of funds obligated was in the area of immigration reform and control, as OASP continued to gather information about farmworkers and those legally authorized to do farmwork. The second largest amount was in the area of drug abuse in the workplace, where OASP continued its contractual efforts to develop, review and evaluate educational tools for workers on the deleterious effects of alcohol and drugs. Funds were also obligated for the Secretary's initiatives on mentoring, workforce quality, and child care, plus a major initiative on the development of a Department-wide regulatory enforcement database.

The Office responded to numerous inquiries from Departmental staff, Congress, the news media, and the general public on the Department's history. It was also consulted by historians and social scientists, advanced students, and photo researchers for advice on historical topics and for access to the Office's historical resources. Work was begun on a computerized finding aid to the Office's extensive holdings of Secretary of Labors' speeches, Labor Department press releases, oral histories, historical photographs, and other materials. In addition, the Office prepared all official records of the PRB.

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Office of the Assistant Secretary for Administration and Management

The Office of the Assistant Secretary for Administration and Management (OASAM) continued its efforts to make the Department of Labor a better and more productive place in which to work during FY 1990. Significant accomplishments included: a strengthening of information processing acquisition procedures; an improved labor-management relations climate; introduction of, and the continued enhancements of a modernized financial and accounting system; preparation and issuance of semi-annual management reports; continued progress toward goals ensuring a safe and physically and emotionally healthful workplace for Labor Department employees; and increasing the representation of the Department's Hispanic workforce at all levels, and of women and minorities in Grades 13 and above.

Directorate of Administrative and Procurement Programs

Major initiatives completed during FY 1990 included: establishment of an Office of Acquisition Integrity, Great Hall enhancements, completion of a major cafeteria renovation, availability of temporary relocation space for occupants of the Frances Perkins Building, newly instituted garage hours, and an expansion of the carpool locator service. These improvements are yielding benefits to employees and have, in general, resulted in an improved work environment.

In order to improve the quality level of planning, execution, and administration of information processing acquisitions, the Assistant Secretary for Administration and Management directed the establishment of an Office of Acquisition Integrity (OAI) to review proposed major or significant acquisitions. Through that action, and an expanded role for the Procurement Review Board, which now must approve those acquisitions, the

Department addressed the critical prior planning requirement for information processing acquisitions. This way of doing business will improve the quality of information processing acquisitions.

Portraits of former Secretaries of Labor are now on display in the Great Hall, which enhances its appearance and provides a visual history of one aspect of the Department of Labor for visitors and employees. All renovations of the cafeteria have now been completed. The result is faster food service, improved menu selections, and a much more attractive appearance of the food services and seating areas.

Over the years the relocation of employees while their offices were being renovated has been a personally frustrating and a costly administrative experience. This year two areas of swing space were established to temporarily house people. Now, instead of moving furniture and installing phones twice for each renovation, swing space phones and furniture are permanent; only the occupants are temporary. Another employee benefit was expansion and upgrading of the carpool locator in the Great Hall to meet the longer commuting patterns of employees. Additionally, a change in the parking contract was negotiated to open 45 minutes earlier each day to coincide with flexible work schedules of employees.

Directorate of Personnel Management

A significant accomplishment during the year was the agreement that the Department reached with the National Council of Field Labor Locals (NCFL) on a "win-win" approach for renegotiating the DOL-NCFL Collective Bargaining Agreement. The focus of this new approach is for labor and management to jointly explore true interests and concerns rather than compromising from hardened exaggerated bargaining positions. As a first step toward achieving a better labor-management agreement, a series of six joint review sessions were begun to provide for factfinding and an opportunity for local input by managers and employees.

On a staff level, to be more responsive and focused in the area of labor-management relations, the Office of Employee and

Labor-Management Relations was reorganized into a separate Employee Relations Division and two divisions of labor-management relations, each responsible for the same full range of labor-management activity but with specific agency and regional servicing responsibilities. The reorganization brings a needed focus and emphasis to employee relations, and permits increased staff flexibility in the labor relations area. Under a generalist approach to labor relations, staff may receive assignments in either contract area (NCFLR or Local 12) and across the spectrum of labor-management activities, i.e., arbitration, step three grievances, ULPs, or collective bargaining activities.

The Department's Personnel Management Information System (PERMIS) was converted to a Sperry mainframe which will permit faster processing of data. In addition, the 20 personnel offices that utilize the system have been given PCs to access PERMIS. The PCs will allow the user community to download personnel data from the Sperry mainframe and move that data into application software for analysis and reporting purposes. This provides a significant increase in capability for analyzing human resources data at the operating personnel office level. The Directorate of Personnel Management began efforts to utilize the emerging PC environment to provide easy-to-access human resource information to managers. Workforce profile data and human resources goals information are available on a stand-alone diskette which requires no programming or software knowledge to use. Another diskette is available for pay deciding officials to model various pay-out strategies, compute award totals and analyze results.

Shortly after the Office of Personnel Management's (OPM) revision of Federal Personnel Manual Chapter 511 on Position Classification, Departmental supplementary classification information was revised and reformatted to consolidate policy and procedures into one streamlined document. A revised Employee Handbook, which provides information on employees benefits and rights, the Departmental personnel program, and services for the employees, was published and distributed to all employees.

After working for more than two years with OPM, the joint OPM/DOL General Compliance Guide was to be issued by OPM. This single, but comprehensive guide, will facilitate the classification of compliance positions in ESA, PWBA, OLMS, and OSHA and will foster more consistent and accurate classification among the 1,500 Departmental compliance positions.

Finally, to further streamline its recruitment process, OPM granted the Department a delegation of authority to examine for 33 more major occupations. This will allow the Department to exercise greater control over the timeliness of recruitment of candidates who are well qualified for specific positions.

Directorate of Civil Rights

During the year affirmative action emphasis was expanded to include the Secretary's new initiative on individuals with disabilities and disabled veterans. The Directorate of Civil Rights (DCR) played a key role in launching the OASAM initiative to install telecommunication devices for the deaf throughout the Department and its field offices, to increase deaf individuals' accessibility to the Department's programs and job opportunities. DCR staff served on the Secretary's Task Force on Individuals with Disabilities and Disabled Veterans and on the Office of Personnel Management's Task Force on revising the Disabled Veterans Affirmative Action Plan for the Federal Government.

The Secretary's goals to increase the representation of Hispanics at all levels, and of minorities and women at Grades GS-13 and above, continued to be an OASAM priority. Special emphasis continued in recruitment activities, e.g., Job Fairs at colleges and universities with high enrollment of Hispanic students. As a result, the rate of the Department's Hispanic internal workforce increased from 4.9 percent to 5.0 percent during the year. The number of minorities and women in Grades GS 13 and above increased from 1,650 to 1,749.

In recognition of the need to more fully integrate equal employment opportunity (EEO) with management planning and priorities, DCR: (1) initiated meetings with agency heads to

review the status of EEO in their respective agencies in terms of complaints and progress in achieving Secretarial goals related to EEO; (2) revised the EEO course for supervisors in conjunction with the DOL Academy; (3) participated with other Departmental agencies in conferences and special training sessions; and (4) participated in the "assessment center process" utilized by a major Departmental agency for the selection of a regional administrator.

Coordination and linkages with individuals and organizations increased significantly in FY 1990. DCR participated extensively in conferences sponsored by national organizations representing employment and training interests, or held meetings with them. These groups included the Interstate Conference of Employment Security Agencies, the National Governors' Association, the National Alliance of Business, and State officials. To increase their knowledge of EEO requirements, 10 EEO training conferences were conducted across the country for approximately 150 EEO and administrative staff of Job Training Partnership Act recipients. A national EEO Conference, with 155 participants representing over 40 States and Territories, was also conducted.

DCR also worked with the Employment and Training Administration, the Department's major grant-administering agency, in developing and disseminating EEO policy guidance to employment and training grant recipients.

Office of Safety and Health

Continued progress was made toward the goal of ensuring a safe and healthful workplace for all employees through training and education; on-site inspections; hazard abatement; active safety and health committees; drug testing; internal program self-evaluation; improved accident/injury reporting; health services, including wellness/fitness; and the return of injured/ill employees to productive work.

Noteworthy during this period were: a total Labor Department effort to identify persons on employees' compensation who could be returned to the workforce and their reemployment; developmental work on a Driver Safety Program;

testing for Radon at MSHA and Job Corps sites; development and administration of a new Comprehensive Safety and Health Training Course for supervisors; indoor air pollution testing; and a massive ergonomics initiative, particularly involving the safety and comfort of workstations.

Also during the year, the Department realized its goal of assisting employees to stay physically and emotionally well through its Wellness Program, which included the Employee Assistance and Fitness Programs; health screening; education on cancer, cholesterol, diet and nutrition, AIDS, smoking, sports injuries, first aid, CPR, weight loss, and other topics; immunizations; and visual screenings.

All supervisors and employees were offered training on the Drug-Free Workplace Plan through videotapes and written materials produced by the Department. Following that training, drug testing began, first in the national office, and then in the regions. A vigorous campaign was also waged to educate employees on the hazards and consequences of substance abuse.

Finally, an all-out effort was made to improve the Department's posture with regard to the costs of its Workers' Compensation Program. A new position was established to oversee the success of the program and to provide technical assistance to agency staff in identifying persons on the compensation rolls who could be returned to work and then returning them to productive employment.

National Capital Service Center

Emphasis was continued on service improvement and enhanced delivery strategies through incorporating the use of personal computers in many of the Center's operations. Staff from each component received training on the use of a variety of software packages. For example, the budget formulation and execution process and accounting system reports in the financial management reporting process were automated. Aided by the capability of personal computers, staff developed monthly financial forecasts for client organizations which facilitated decisions on efficient and effective resources management.

At the end of its third year, an assessment of the Clerical Support Program (CSP) services provided to client agencies was completed. A survey of current and former participants was utilized to ascertain the impact of the program on their career development. The assessment and survey results gave the program high marks and a decision was made to institutionalize the CSP. A permanent coordinator was appointed and a system to provide for the payment of services provided to non-OASAM clients was implemented.

Comptroller

During the year, the Comptroller focused attention primarily on those projects and activities which increased the efficiency, timeliness and accuracy of the Department's financial operations, and protected the Department's resources from fraud, waste or abuse.

By the end of the year, implementation of the core of the Department of Labor Accounting and Related Systems (DOLAR\$) was substantially completed. Under the new system the Department now has complete and accurate data input structured in accordance with the Standard General Ledger and other Federal requirements for all S & E and grant components. Data are entered, edited rigorously and corrected promptly. The standard on-line query capability allows users to query by document, transactions, fund or project. Internal financial reports are produced on a more timely basis. External reports for the Office of Management and Budget and Treasury were being implemented at year-end.

In addition to core, the Department implemented the system's budget module, its time distribution of hours worked by project module, its basic redistribution of working Capital Fund charges module, and the payroll interface. Initial developmental work was also done on other DOLAR\$ sub-systems. During FY 1991 the accounts payable, imprest fund, procurement, travel, and accounts receivable sub-systems will be implemented. Refinements will be made to the payroll, payments and ancillary systems interfaces, and the time distribution and Working Capital Fund modules.

Work was also completed on two major initiatives: publication of the first employee benefit statements, and preparation of the first management report required under the Inspector General Act amendments. The employee benefit statements inform each employee of the value of his or her retirement, health insurance, life insurance and other fringe benefits, including in some instances future-year projections. The management report deals comprehensively with accomplishments that improve resource management and specifically with each open audit recommendation that has any resource implications.

A pilot program was initiated to shift grant payment functions from a Treasury system being phased out to an inter-agency operation with the Department of Health and Human Services. With grants being a multi-billion dollar Departmental activity, the need for timely and thorough accounting and fund controls made this a major endeavor. Planning was also done on another internal control initiative, namely, reduction in Federal cash advances through the use of Diner's Club credit card ATM's. Full implementation of both of these is planned for FY 1991.

Directorate of Information Resources Management

Office automation was expanded and standardized in the Department in anticipation of implementing the Local Area Network (LAN). Employees were trained and 20 LANs, which provide the means for effective and efficient use of ADP resources through the sharing of information electronically, were implemented. User groups were formed to enable employees to benefit from the sharing of knowledge and experience using word processing, spreadsheets, graphics, and database software packages.

Significant progress in the testing and production environment of DOLAR\$ contributed to the stabilization of the system. The stabilization resulted in production cost savings to the Department. Timely implementation of the Department's major telecommunications service, FTS 2000, was also achieved, eliminating the need to maintain costly parallel systems.

IRM policy guidance was issued for official use of microcomputers and related equipment, computer security, and computer virus warnings, all of which assisted the Department in managing its ADP equipment and avoiding waste and abuse.

The concept of Total Quality Management, to assure customer satisfaction through the commitment by employees, supervisors, and managers was promoted throughout the year. Finally, under DIRM leadership the Department continued its commitment to reduce and control information collection burdens on the public. Paperwork burden reductions in excess of 31 million hours were realized in FY 1990.

Regional Offices

As microcosms of the OASAM national office the regional offices were equally concerned about and undertook initiatives designed to improve productivity, cut operating costs, improve customer services and provide for the physical and emotional well-being of employees. Each regional OASAM had its own priorities and what could be achieved was dependent upon the availability of resources, including human resources.

A variety of programs which addressed the issue of elder care were held during FY 1990 in Boston, Philadelphia and Chicago OASAM regional offices. These programs included on-site seminars which were taped for later viewing by other employees; a manual and general newsletter; and telephone consultation and referral services. Additional seminars are planned for the first half of FY 1991 in some of these regions. The Atlanta OASAM expanded its child care resource and referral service to include informational services for elder care.

All regions pursued initiatives designed to improve productivity, particularly through increased and more efficient and effective use of computers.

The Chicago OASAM installed 51 new personal computers (PCs) and related equipment during the year, and implemented a fully functioning Local Area Network (LAN). Staff training in WordPerfect, Lotus 1-2-3, and MS-DOS was provided to OASAM employees as the equipment was being installed, to ensure that the new computers would not sit idly. Virtually all

regional OASAM employees are now computer literate in one or more programs and the PCs quickly became the "equipment of choice" among both clerical and professional staff.

In the Dallas region an older computer system was replaced by a Local Area Network (LAN) shared with OSHA, VETS, SOL, OIPA, Women's Bureau, and the Secretary's Representative. This new configuration consists of 48 PCs; Laser Jet printers, and new state of the art telecommunications equipment. OASAM staff were given extensive training in DOS, WordPerfect and Lotus user software in order to fully utilize the new system.

Kansas City's OASAM accomplished two major nationwide computer-related initiatives. One was the development of IDEAS-90, a data entry system for implementing DOLAR\$ which was distributed to all regions and national office components. This system provided the primary source of data entry into DOLAR\$ throughout most of FY 1990. The other was the development and sharing of a PC-based Relocation Management System for handling Relocation Travel Center payments, tax reports, employee notifications and management reports for all relocation cases.

Denver's regional Personnel Office coordinated participation by both the Denver and Dallas regions in an OPM sponsored "Celebration of Public Service" Job Fair. The two day event was an overwhelming success, attracting over 18,000 participants and literally causing local traffic disruptions. Over 25 placements resulted from the coordinated effort, mostly in shortage OSHA occupations positions. The regional Personnel Office also played a key role in assisting OPM and the Colorado Job Service in developing an automated referral system for veterans which included a full applicant listing of Veteran's Readjustment Act eligibles.

The Boston OASAM also participated in a major OPM-sponsored Job Fair in that city, which attracted approximately 3,000 applicants and aided in the Department's recruitment efforts.

Unique among experiences of OASAM regional offices was that in San Francisco where staff had to deal with the aftermath

of the October 1989 earthquake. Fortunately Stevenson Place, the regional office headquarters building, came through the earthquake with no structural damage. Very little damage to furniture occurred because most shelving and filing cabinets had been braced, as recommended by earthquake experts. Employees that had to remain in the building overnight used the Department's emergency kits, particularly flashlights, blankets and radios, when all power in the city was lost shortly after the quake. The region's Employee Assistance Program contractor provided a counselor to conduct a group therapy session for employees on techniques to deal with the stress associated with the earthquake. Existing emergency kits were augmented and emergency supplies were procured for field offices with ten or more employees. Forty-three employees in San Francisco were trained in CPR and First Aid procedures, and a Disaster First Aid Class for 20 employees was scheduled in October in conjunction with the purchase of major injury kits. OASAM's Safety and Health Manager is participating on an REC sub-committee to develop an earthquake preparedness plan for the San Francisco Bay Area.

On a less traumatic note, the San Francisco OASAM fully implemented the local PC application to create payment schedules to the Treasury on magnetic tape, rather than manually typing them. This is the only known PC-based application of its kind in the Bay Area federal community. In addition to providing better management information and control over inputs, as well as improved internal control through the use of security passwords for approving the schedule data, a 5 month post-intervention study of the process revealed a 74 percent productivity improvement, with estimated annual savings of \$5,391.

In Seattle the regional OASAM coordinated the move of Labor Department agency regional and district offices in that city into new quarters with a net reduction of occupied space. A "no exceptions" smoking policy was instituted for the building except for a "smokerroom" which is ventilated into a waste-air system.

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Bureau of International Labor Affairs

In fiscal year 1990, the Bureau of International Labor Affairs (ILAB) continued its active involvement in the development of Administration policy with respect to international trade and investment. ILAB provided leadership for the Department in assuring that the interests of U.S. workers were given full voice and consideration in this policy formulation process.

Of particular importance during the period was ILAB's involvement in: preparations for the conclusion of the Uruguay Round of negotiations on the General Agreement on Tariffs and Trade (GATT); negotiations related to the Structural Impediments Initiative with Japan; Administration decisions on "trade liberalization priorities" under the "Super 301" provisions of the Omnibus Trade and Competitiveness Act of 1988; and decisions concerning benefits under the U.S. Generalized System of Preferences (GSP) for foreign developing countries in view of their worker rights practices.

Dramatic developments in Eastern Europe during FY 1990 led to extensive ILAB involvement in the development and implementation of a highly successful labor technical assistance program for Poland and Hungary under the Support for East European Democracy Act of 1989. A Presidential Mission to Poland was co-led by Secretary Dole in December. Subsequently, Deputy Secretary DeArment and ILAB's Deputy Under Secretary McCaffrey headed a group of labor, business, and government leaders on a visit to Poland and Hungary during which specific labor technical assistance initiatives were developed in consultation with Polish and Hungarian counterparts. ILAB's effective implementation of these programs has been praised within the Administration and by assistance recipients in Poland and Hungary.

ILAB continued its leadership role with respect to U.S. participation in the International Labor Organization (ILO). During her attendance at the annual ILO Conference, Secretary Dole formally deposited the U.S. instrument of ratification for

ILO Convention 160, concerning labor statistics. This is the third ILO convention ratified since 1988, the year in which the U.S. ended a 35-year moratorium. ILAB also led Administration efforts during the year recommending that the President seek Senate advice and consent to ratify the ILO Convention 105 concerning the abolition of forced labor.

International Economic Policy

The Bureau was intensely involved in the area of international trade and investment policy as the Administration sought to implement its trade initiatives multilaterally and the Uruguay Round negotiations of the General Agreement on Tariffs and Trade (GATT) accelerated toward anticipated conclusion in December 1990.

Acting through its membership in various interagency committees charged with trade policy functions, in Fiscal Year 1990 the Bureau:

- Helped develop U.S. positions for all negotiating groups in the Uruguay Round of Multilateral Trade Negotiations, and helped assure that the views of the Labor Advisory Committee (LAC) were made known and taken into account. ILAB often took a lead role in preparing papers and developing positions in areas of particular interest to the LAC.

- Participated directly in GATT negotiations on issues of central concern to U.S. workers, including market access, textiles, safeguards, services (especially labor mobility issues), government procurement and antidumping. As the Uruguay Round negotiations neared completion, the Bureau established an in-house strategy group to anticipate possible eleventh hour trade-offs and formulate appropriate responses.

- Devoted substantial resources to worker rights issues, particularly to the implementation of the worker rights provisions under the Generalized System of Preferences (GSP), and to the development of Administration positions and strategies to gain support for GATT consideration of the worker rights issue.

- Collaborated in a second interagency review aimed at

selecting "trade liberalization priorities" pursuant to the "Super 301" provisions of the Omnibus Trade and Competitiveness Act of 1988. The successful completion of the Uruguay Round was designated as the trade liberalization priority for 1990 and India (designated as a priority country in 1989) was renamed. The Bureau also participated actively in efforts to resolve specific priority practices identified in the 1989 Super 301 process involving Brazil and Japan.

- Was one of the principal agencies involved in negotiations with foreign governments to renew steel Voluntary Restraint Agreements (VRAs) and to gain bilateral agreement on the elimination of trade-distorting practices in the steel sector. ILAB coordinated consultations on all activities related to implementation of the President's Steel Trade Liberalization Program with representatives of the United Steelworkers of America.

- Continued as a principal member on U.S. delegations involved in the negotiation of bilateral agreements on textiles within the framework of the Multi-Fiber Arrangement (MFA). One new bilateral was negotiated and four existing bilaterals expired, bringing to 39 the total number of agreements in effect. Bilaterals were renegotiated with five countries and negotiations were begun on five other expiring bilaterals.

- Continued to participate in interagency efforts to stem import surges of uncontrolled textile and apparel products. In FY 1990, these efforts involved consultations with some 14 countries.

- Participated in activities related to negotiations on bilateral trade issues, such as preparations for the negotiation of a Free Trade Agreement with Mexico and issues related to the Structural Impediments Initiative with Japan.

- Participated in interagency discussions on problems and alleged violations of the January 1, 1989, U.S.-Canada Free Trade Area Agreement. Also participated in reviews and negotiations concerning products for which the private sector requested accelerated tariff staging.

- Assisted in implementing the Administration's trade policy for developing countries under the Annual Review of trade

benefits provided under the Generalized System of Preferences.

- Continued to participate in activities related to Administration monitoring of the European Community's creation of a single market by 1992 (EC 92) which will eliminate barriers among participating countries to the movement of goods, services, capital, and persons.

- Led efforts within the U.S. interagency group to monitor EC 92 developments with respect to the "social dimension." This work will help the U.S. stay abreast of EC actions that could lead to policies that would harm U.S. workers. In March, the Bureau co-sponsored with The Center for Strategic and International Studies a Working Roundtable entitled: "EC 1992: Implications for U.S. Workers."

- Continued to participate in interagency efforts to develop administrative measures to enhance the existing Caribbean Basin Initiative (CBI). ILAB also reviewed and commented on proposed CBI legislation.

- Continued participation in U.S. bilateral discussions with foreign suppliers of machine tools. Machine tool imports were the subject of an earlier national security investigation pursuant to Section 232 of the Trade Expansion Act of 1962. The Bureau also participated in interagency deliberations on the shipment of certain machine tools to the United States through a third country.

- Participated in meetings of the OECD Steel Committee and Steel Committee Working Party, focusing on the development of long-term solutions to the problems of international trade in steel. Represented the U.S. in a discussion of the President's Steel Trade Liberalization Program during the April 1990 meeting of the OECD Trade Committee.

- Participated in Administration efforts to negotiate an international agreement aimed at eliminating subsidies and other government supports in the commercial shipbuilding and repair industry.

- Continued to participate in semiannual discussions with the Government of Japan to review and assess progress under the 1987 agreement on the sale of U.S.-made auto parts to Japanese companies.

- Participated in the work of the interagency group on the OECD Committee on Investment and Multinational Enterprises to increase awareness of, and support for, the Guidelines for Multinational Enterprises.

Immigration Policy and Research

In the areas of immigration policy and research, ILAB continued to participate in the formulation of U.S. immigration policy, to serve as the Department's expert on U.S. and international migration programs and practices, and to prepare position papers on international labor flows.

The Bureau worked actively within the Administration on a variety of legal immigration proposals, representing the Department at Congressional hearings and interagency policy meetings. This work contributed to enactment of the Immigration Act of 1990 which represents the most significant revision of U.S. immigration law in nearly 40 years. ILAB continued to lead DOL's Immigration Task Force which developed and refined Departmental positions on immigration issues.

Under the Immigration Reform and Control Act of 1986, the Bureau has responsibility for evaluating the labor market consequences of this legislation for three major series of Presidential reports--those on employer sanctions and legalization, as well as the triennial comprehensive reports. In FY 1990, the Bureau produced the Department's contribution, "The Effects of Employer Sanctions on the U.S. Labor Market", for the first President's Report on Unauthorized Alien Employment. In support of its increased research responsibilities, ILAB continued the expansion of its contract research program on immigration and labor force issues.

Immigration policy specialists from ILAB continued to play the lead role for the U.S. Government in international fora discussing international labor flows. They served as the U.S. representative to the OECD working Party on Migration, as the U.S. correspondent to OECD'S SOPEMI (Migration Statistics) report, and as U.S. representative to the U.N. Conference on Human Rights of Migrant Workers.

ILAB continued to provide policy analysis on labor-related immigration issues to senior DOL policymakers, the Departments of State and Justice, and the Congress. The Bureau conducted analyses of various aspects of legal and illegal migration to the U.S. and prepared U.S. Government position papers on immigration issues for major U.S. and international conferences. ILAB's immigration policy specialists also presented a number of research papers at professional and international meetings.

Foreign Economic Research

In-house research studies undertaken in fiscal year 1990 addressed:

- The implications of EC-1992 on U.S. workers;
- Labor-management relations and job-restructuring in the North American automobile industry;
- The linkages between labor standards and trade;
- Labor issues related to export-oriented assembly and processing operations in developing countries;
- The effects of the Uruguay Round of multilateral trade negotiations and the proposed U.S.-Mexico free trade agreement on U.S. workers;
- The U.S. employment effects of the Caribbean Basin Initiative (required under section 216 of the Caribbean Basin Economic Recovery Act).
- The effects on U.S. workers of offsets in defense-related export sales (part of OMB's fifth annual report to the Congress under section 309 of the Defense Production Act and section 825 of the National Defense Authorization Act).

ILAB's foreign economic research staff made several presentations at professional meetings and conferences and published research papers in professional journals. Background papers and organizational assistance were provided for symposia on labor standards and development and for the conference on the implications of EC 1992 for U.S. workers.

Analytical support was provided to the U.S. Representative to the Manpower and Social Affairs Committee of the Organization for Economic Cooperation and Development (OECD) in reviewing and evaluating several international comparative studies on labor market issues. ILAB staff continued participation in an international study coordinated by the OECD on structural change and new skills required for service-sector jobs.

A number of contract research reports on international economic issues and labor, mostly funded through support provided by the Department's Employment and Training Administration (ETA), were completed. Also, several in-house studies were released through the Department's Economic Discussion Paper series.

International Organizations

ILAB's Office of International Organizations (OIO) was actively involved in several international organizations, chief among them the International Labor Organization (ILO) and the Organization for Economic Cooperation and Development (OECD).

International Labor Organization

The following are highlights of ILAB accomplishments related to International Labor Organization (ILO) activities in FY 1990.

On May 8, 1990, President Bush signed ILO Convention No. 160 concerning Labor Statistics. The President signed the convention upon a recommendation by the President's Committee that the U.S. was in full compliance with the convention. Unanimous advice and consent of the Senate had been obtained on C.160 on February 1, 1990. Secretary Dole formally deposited the instrument of ratification with the ILO Director-General on June 11, 1990, while in Geneva for the annual ILO Conference. Convention 160 is the third ILO convention to be ratified since 1988, the year in which the U.S. ended a 35-year moratorium.

On March 27, 1990, the President's Committee on the ILO, under the chairmanship of the Secretary, decided to recommend that the President seek ratification of a key ILO worker rights convention (No. 105) on the abolition of forced labor. Previously, a legal subgroup of the President's Committee, the Tripartite Advisory Panel on International Labor Standards, had concluded that the U.S. was in full compliance with Convention 105 and that ratification would not change U.S. law and practice in this area. Pursuant to the decision of the President's Committee, the Labor Department initiated the Executive Branch transmittal process, the purpose of which is to place Convention 105 before the Senate for its advice and consent to ratification.

The U.S. Delegation to the annual ILO Conference (ILC) was headed by the Deputy Under Secretary for International Affairs. Highlights of this year's Conference included the following:

- In her address to the ILO Conference, Secretary Dole announced the award of a DOL/EPA grant to fund ILO work with the new Budapest Regional Environmental Center to conduct seminars on occupational safety and health issues in the region.

- The ILO Conference overwhelmingly adopted a new ILO Convention and Recommendation on Safety in the Use of Chemicals at Work. The Convention requires each ratifying state to establish a comprehensive program to protect workers exposed to chemicals. While the U.S. Government and worker delegates voted for the new standards, the U.S. employer delegate abstained in the Convention vote, citing general opposition to new ILO standards rather than any specific problems with this Convention. The employer delegate did vote in favor of the Recommendation.

- ILAB worked diligently during the past year to achieve an increase in the number of Americans employed in the ILO. A task force, chaired by ILAB and including Department of State and ILO Washington Branch Office staff, was set up to help ensure active recruitment of qualified Americans for

employment in ILO professional positions. Recruitment efforts resulted in a tenfold increase in the number of Americans offered ILO contracts in comparison with the previous year, including election of an American for the important post of Secretary-General of the International Social Security Association.

Organization for Economic Cooperation and Development

In 1990, ILAB participated in a number of OECD activities that addressed Workforce 2000 issues:

- ILAB, in cooperation with the University of Maryland, the U.S. Department of Health and Human Services, and the OECD, organized a Washington, DC, international conference on employment programs for people with disabilities. Deputy Secretary DeArment spoke on labor market forces and the employment of people with disabilities. Representatives from the United Kingdom, Sweden, Denmark, Italy, Canada, Australia, and Poland participated.

- The Department of Labor, in cooperation with the Pension Benefit Guaranty Corporation, the Employee Benefit Research Institute, and the OECD, sponsored an international pensions conference in Washington, D.C. Representatives from Canada, Japan, the Netherlands, United Kingdom, and the United States discussed the structure, operation, policies and statistical analyses of their respective systems. The OECD will hold a follow-up conference in June 1991.

- In support of the Secretary's Work Force Quality Initiatives, a grant was provided to the OECD to examine further education and training policies in the United States, Australia, and Sweden. The OECD will hold an international conference on this topic in June 1991.

- In addition to the above activities, ILAB participated in other OECD meetings on a variety of subjects including: employment, structural and technological change, industrial relations, the role of women in the economy, education and

training in a changing economy, equal employment opportunity programs, labor market statistics, and international migration.

Foreign Relations

ILAB's Office of Foreign Relations continued to promote the interests of American workers by supporting U.S. domestic and foreign policy goals, in particular by strengthening democratic and pluralistic values abroad; developing free enterprise market economies; encouraging respect for internationally recognized worker rights; and establishing mutually beneficial relations with other friendly governments.

Eastern Europe

A significant part of ILAB's foreign relations work in fiscal year 1990 involved labor assistance in Eastern Europe, the Department of Labor's component of the Support for East European Democracy (SEED) Act of 1989. Accompanied by AFL-CIO President Lane Kirkland, Labor Secretary Elizabeth Dole co-led a Presidential Mission to Poland. ILAB's role in Eastern Europe, which resulted from that mission, was to help build a "safety net" for Polish and Hungarian workers who lose their jobs during the transition to a market economy, and to help create institutions for a free labor market.

In January, following the Presidential Mission, Deputy Secretary DeArment and ILAB's Deputy Under Secretary Shellyn McCaffrey led a visit by a team of U.S. business, government, and labor leaders to Poland and Hungary to design specific assistance programs based on the priority needs of each country. Under Deputy Under Secretary McCaffrey's leadership, implementation of these programs was well underway in fiscal year 1990.

A key element of the East European assistance program involved the establishment of prototype employment service systems in two regions in Poland--Szczecin and Gdansk--and one region in Hungary--Pecs. A prototype counselling program to provide displaced workers and their families with ready access to information about and support from public and private institutions in the community in areas such as financial aid,

family problems, and health services was also established in Gdansk. Under other elements of this program, ILAB:

- Initiated a model program to offer displaced, skilled workers interested in self-employment with basic information needed to start and operate a small business in Poland;
- Provided technical assistance on the development and rapid implementation of an effective unemployment compensation payment system for Poland;
- Provided officials from Hungary and from Poland's Central Statistical Office with training and advice on procedures for gathering, analyzing, and using labor statistics in a free market environment; and
- Began efforts to address Poland's severe housing shortage--a major impediment to labor mobility--by working with the AFL-CIO and American business on the establishment of a modern construction crafts training facility in Praga, Poland.

ILAB participated in an international coordinating conference for donors of labor assistance to Eastern Europe which was sponsored by the International Labor Organization in Geneva. Other major donors in attendance were the United Kingdom, Federal Republic of Germany, France, and Italy.

The Departments of State and Labor cosponsored a regional conference of European labor officers in Brussels, May 6-8, which focused on the labor aspects of recent developments in Eastern Europe and the advent of EC-92. The conference was co-chaired by ILAB's Deputy Under Secretary Shellyn McCaffrey.

Worker Rights

On August 22, Secretary Dole submitted a report to Congress on Worker Rights in Export Processing Zones (EPZs), covering the Dominican Republic, Haiti, India, Jamaica, Korea, Malaysia, Mexico, Philippines, Sri Lanka, Thailand, and Tunisia. This is the first report prepared under Section 6306(b) of the Omnibus Trade and Competitiveness Act of 1988 which directs the Secretary to conduct a study on internationally recognized

worker rights and to submit a report to Congress biennially.

ILAB completed a basic reference for practitioners on worker rights entitled *Worker Rights in US Policy*. This document includes information on worker rights history, relevant U.S. trade legislation, and a summary of how the laws have been executed. It also includes an appendix that defines the internationally recognized labor standards found in U.S. trade law and gives examples of their application.

A Worker Rights Game was designed during the year to help students learn quickly and retain complicated principles of international labor standards. The game has become a standard feature of the State Department's Foreign Service Institute worker rights training for Foreign Service Officers, and will be used in future AFL-CIO training as well.

Substantial progress was made in the design of a computerized questionnaire to help U.S. embassy personnel abroad who must report on worker rights to correctly identify worker rights problems in their respective countries.

International Visits

ILAB assisted Secretary Dole with her visit to the Dominican Republic. The Secretary was asked by President Bush to lead the U.S. Government delegation to the inauguration of the Dominican Republic's president, Joaquin Balaguer. Following the Secretary's visit to Santo Domingo, she received a delegation from the Dominican Republic, headed by the Labor Minister, to discuss the worker rights situation in that country and to explore joint approaches to solve worker rights problems. The Minister was accompanied by two Foreign Ministry Labor Advisers and the president of one of the Dominican Republic's free trade zones.

ILAB also helped prepare Secretary Dole for her trip to the Middle East which included visits to Egypt, Israel, Jordan, and Syria. Following the Secretary's visit, she hosted a luncheon in Washington for Queen Noor of Jordan. ILAB provided background papers for that event.

A tripartite delegation on skills training and education spent a week in Japan visiting a variety of public and private training

institutions and manufacturing organizations. They consulted with Japanese experts responsible for preparing individuals for the workplace. This visit will be followed by a Japanese visit to the United States to study U.S. training and education and to participate in an international symposium in Washington, D.C., on "Workforce Quality: Perspectives from the U.S. and Japan."

ILAB conducted a week-long seminar on mediation and conciliation for labor inspectors of the Guatemalan Ministry of Labor, a function envisioned in a newly-proposed Labor Code now before the Guatemalan Congress. ILAB also conducted several labor-management workshops with employer and labor groups, with the objective of providing a model for improving industrial relations at the plant/company level in Guatemala.

A visit to Jamaica was completed by ILAB and Agency for International Development (AID) staff to assess the benefits derived from the Labor Department labor study program since 1983. It was concluded that Jamaican participants have definitely gained from their U.S. experience, and that the tripartite teams, in particular, have established much better communication between labor, government, and business.

During FY 1990, negotiations were completed to extend ILAB's Vocational Training and Construction Project (VOTRAKON) in Saudi Arabia for another five years.

Fact-finding trips were made to Brazil and Panama to review the labor situation in both countries and assess possibilities for Labor Department technical assistance.

ILAB staff traveled to Turkey with a World Bank representative to assess prospects for vocational/technical education and training in cooperation with the World Bank.

International Visitors

During fiscal year 1990, the Department of Labor hosted several senior African officials including: the Minister of Labor of Mali, Madame Lalla Diallo; the Minister of Labor and Social Welfare of the Congo, Madame Jeanne Dambendzet; and the Minister of Employment and Re-employment of Senegal, Djibril N'Gom.

In September, Secretary Dole received the U.K. Secretary of State for Employment Michael Howard, and exchanged ideas and information on how to improve the skills of their respective work forces.

As part of the Labor Department-Japanese Ministry of Labor cooperative program, arrangements were made for an official from the Ministry's Women's Bureau to spend five weeks in a work-study program with Labor Department agencies concerned with the administration of equal employment opportunity laws and regulations.

ILAB staff met with the Secretary General of the Taiwan Council of Labor Affairs to update the technical cooperation agreement that the Labor Department has with the American Institute in Taiwan. A meeting was also held with Stanley Wong, Hong Kong's principal Assistant Secretary for Education and Manpower, to discuss plans for training in the United States for middle level Hong Kong technicians and executives. It is hoped this project will get under way by the summer of 1991.

ILAB coordinated 3-week study tours funded by AID for approximately 106 foreign nationals in five separate groups. All five groups were from developing countries and included tripartite representation. The programs were entitled: Women in the Workforce; Labor's Role in Improving Productivity; Labor Relations Aspects of Worker Safety and Health; Labor Relations in a Democratic Society; and Labor-Management Cooperation. In addition, visits were arranged throughout the Department for approximately 700 foreign visitors programmed in the United States by other sponsoring agencies, such as the U.S. Information Agency (USIA) and the AFL-CIO regional institutes.

An orientation video for foreign participants in the fiscal year 1991 Labor Study Program has been approved by AID for transmittal to its missions in English-speaking developing countries. Plans are under way for the translation of this video into French and Spanish.

Area Advisers

ILAB's area advisers analyzed 173 draft country reviews of 1989 Human Rights Reports prepared by the U.S. Department of State. The area advisers also assisted the Interagency Generalized System of Preferences (GSP) Subcommittee in reviewing the labor practices of Benin, the Dominican Republic, Haiti, Indonesia, Liberia, Nepal, Syria, and Thailand to determine if any of these countries should lose privileges under the GSP tariff preference program and forfeit rights to receive investment projects assisted by the Overseas Private Investment Corporation. The sub-committee found that Thailand and Indonesia met the requirements of the law. Liberia was suspended indefinitely from GSP status. It was decided that additional fact-finding should be undertaken on the other five countries before decisions were made. The advisers also made recommendations concerning reinstatement of certain countries that may have undertaken steps in the worker rights area after being removed from the list of GSP beneficiary countries.

A member of the ILAB staff participated as a panelist at the University of Arizona's 26th Annual Labor Management Conference in Tucson, AZ. The panel examined the socio-economic implications, particularly working conditions and worker rights issues associated with the maquiladora industry in Mexico.

Foreign Service

The Department continued to support the U.S. Foreign Service labor attache corps. In addition to cosponsoring a European labor officers conference in Brussels, May 6-8, 1990, the Department participated on Foreign Service Selection Boards, and helped train seven new labor officers. ILAB announced a new Department of Labor Foreign Service Award that will be presented annually to encourage and recognize Foreign Service contributions to the Department of Labor.

ILAB edited and published 61 country reports on overseas labor conditions. These reports were drafted by U.S. embassies and distributed to more than 1,100 subscribers and libraries.

ILAB also produced a videotape on "Labor Attache's and Worker Rights" which has been used in the U.S. Department of State's training programs for new labor officers.

Women's Bureau

During the 1990 fiscal year, the Women's Bureau celebrated a 70-year commitment to its congressional mandate, "to formulate standards and policies which shall promote the welfare of wage earning women."

The continued increase in women's labor force participation, their emergence into a wider variety of employment options and the need for related support services formed the basis for the Bureau's focus for programs, research, and analysis in FY 1990. Specifically, the Bureau addressed four major areas: work and family; training; affirmative action; and occupational safety and health. The issues addressed in each of these respective areas were linked to a common goal: preparation for the workforce of the future.

The Women's Bureau also directed its energies toward developing and conducting a new funding process to better enable the Bureau to solicit and select proposals for the year's research agenda. The research agenda seeks to elicit information and encourage research on new and emerging issues arising out of the current labor force status of women.

Information and Publications

For the second consecutive year, the Bureau published a series of nationally syndicated columns. The topics covered in the four-part series included working mothers, employers and child care, dependent care options, and the Bureau's Work and Family Clearinghouse.

More than 300,000 publications were distributed by the national and regional offices. New fact sheets published in FY 1990 included: 20 Facts on Women Workers, Women in Management, Working Mothers and their Children and State Maternity/Parental Leave Laws. A long awaited series on female entrepreneurs was also released: Women Business Owners, Hispanic Women Business Owners, Black Women Business Owners, Asian American Business Owners, and American Indian/ Alaska Native Women Business Owners.

A booklet entitled, "Women on the Job: Careers in the Electronic Media," was a cooperative effort between the Bureau and American Women in Radio and Television. The Bureau also contributed Facts on Women Workers and History of the Women's Bureau to the fact sheet series produced by the Department.

The demand for "Employers and Child Care: Benefitting Work and Family," and the "Work and Family Resource Kit" required reprints of the popular publications. "A Working Woman's Guide To Her Job Rights" was also reprinted and replaced "Jobs For The Future" as the Bureau's most requested publication.

Work and Family Issues

The Women's Bureau built and expanded upon previous years' advocacy on behalf of workers balancing work and family responsibilities.

The Work and Family Clearinghouse, the Bureau's computerized database, continued to provide employers with information about establishing a wide variety of child care programs, including cafeteria-style benefit plans and tax credits, as well as up-to-date information about liability insurance, community resources, and other timely issues. Plans to include an eldercare component are on-track for early FY 1991.

Complementing the Work and Family Clearinghouse is the Workforce Quality Clearinghouse. Designed to aid employers in building, recruiting, and maintaining a quality workforce, the Clearinghouse provides employers with a listing of policies and programs that have been successfully implemented. Both the Work and Family Clearinghouse and the Workforce Quality Clearinghouse are accessed by toll free numbers.

Women in Management

The Women's Bureau took action on its commitment to helping women reach management levels by implementing a research study through the University of Kentucky Research Foundation that will explore the career mobility of female executives in a variety of industrial, service, and government organizations. The

study will investigate factors such as sex role socialization, internal career paths, interpersonal processes, and individual career vs. family decisions, and stretch beyond affirmative action programs to examine the more subtle individual and organizational processes that potentially limit or promote the career advancement of women.

"Glass Ceiling"

The Women's Bureau and the Office of Federal Contract Compliance Programs participated in a joint initiative to improve upward mobility opportunities for women and minorities and to address the issue of the "glass ceiling" for those women who want to break through it. The University of Kentucky project also addresses the "glass ceiling" issue.

In addition to looking at factors that enhance or impede the careers of women who have made it to high level positions, the study also examines the reasons why women have been held back from top management positions, with special emphasis on conditions such as poor personnel policies, rigid relocation demands, lack of parental leave and child care assistance, and occupational segregation.

Women in Nontraditional Careers

The Bureau joined with the Department's Employment and Training Administration and the Department of Transportation in a project designed to increase the number of women in skilled and semi-skilled jobs in the highway construction industry. The project included the development of a program guide for use by State highway administration officials that would assist their efforts to recruit and retain tradeswomen in their state highway construction work forces.

Displaced Homemakers

Through the Displaced Homemakers Network, the Women's Bureau continued its work to improve employment opportunities for displaced homemakers, focusing on older women, minority women, and accessing the JPTA system.

International

The Women's Bureau continued to participate in the Organization for Economic Cooperation and Development's (OECD) Working Party on the Role of Women in the Economy. The Bureau participated in three major international meetings sponsored by the OECD during fiscal year 1990. A publication entitled, "Women, Entrepreneurship, and Economic Development" was jointly funded by the Bureau and several other OECD member countries. The publication marked the first such effort for the Bureau; however, the Bureau has always maintained a strong role in the development of the Working Party's agenda, position papers, and recommendations.

Office of Inspector General

The Office of the Inspector General (OIG) continued to conduct broad reviews and investigations of Department of Labor programs in FY 1990. Investigative results included 835 cases opened; 1,196 cases closed; 403 cases referred for prosecution; and 469 cases resulting in successful prosecutions totaling \$19,353,410 in recoveries, fines, penalties, restitutions, settlements, cost efficiencies, forfeitures and back taxes.

During the FY 1990 reporting period, the fourth Inspector General head this Office, Julian W. De La Rosa, was appointed.

In a June 1990 audit, the OIG reported that, regardless of the role management defines for criminal enforcement, the Department needs a framework to capture and report data about its criminal investigations. The report also urged the Department to re-examine the issues raised by the two Department of Justice (DOJ) opinions concerning limits on the investigative scope of the OIG's Office of Investigations.

On several occasions during this reporting period, the OIG provided testimony to the Congress on the need for criminal sanctions against perpetrators of white-collar crime who violate laws designed to protect the American worker. In response to this issue, the Secretary formed a Departmental task force to study the problem and make recommendations. Although the task force made several suggestions which may improve general Labor Department enforcement programs, it was the opinion of the OIG that the report failed to effectively address the central issue of criminal enforcement. The report ignores the various problems associated with the Department of Justice's Office of Legal Counsel's March 1989 opinion which severely limits the OIG's investigative ability and limits the Secretary's ability to delegate authority for investigations. Also, the report does not acknowledge the OIG's responsibility to coordinate investigations as specified in the Inspector General Act. The OIG will closely review and monitor the Department's efforts and progress in this area.

During fiscal year 1990, the OIG also testified about the problem of fraudulent multiple employer welfare arrangements

(MEWA's). These schemes continue to result in tragic consequences by holding thousands of employers and their workers personally liable for unpaid medical bills they believed were covered by health insurance. The OIG will continue to conduct Federal criminal investigations and assist States in addressing the MEWA problem.

The OIG's Office of Labor Racketeering (OLR) continued its investigations of corrupt employee benefit plans, labor-management relations, and internal union affairs. During this period, OLR investigations produced 157 indictments and 79 convictions resulting in \$3,929,756 in fines, forfeitures, restitution and back taxes.

The OIG testified several times in efforts to alert the Congress on the vulnerability of the nation's private pension and welfare plans to fraud and abuse. Some progress has been made as a direct result of OIG's testimony. The Department developed Employee Retirement Income Security Act (ERISA) legislative proposals to address some of these concerns. However, at the close of the reporting period, clearance had not been obtained from OMB. The OIG strongly urged the Department to aggressively renew this effort with the next Congress. Relative to this problem, The American Institute of Certified Public Accountants (AICPA), working with the OIG and PWBA, produced a draft revised ERISA audit guide which highlights the auditor's responsibility to detect and report serious wrongdoing. However, the OIG reported that until deficiencies are resolved and the audit guide is finalized, the pension plans remain at risk.

The OIG continued to work on problems in the Job Training Partnership Act (JTPA). OIG audits and investigations disclosed extensive financial difficulties and management problems in JTPA programs nationwide. Unfortunately, legislation that would have addressed many of these flaws died in the Senate. The OIG recommended that legislation be reintroduced in the 102nd Congress in order to improve the Department's JTPA program and ensure that its resources are more effectively utilized.

Also during this reporting period, the OIG's oversight of the Department's new general ledger accounting system (DOLARS) identified adverse conditions which prevent the Secretary of Labor from reasonably assuring the Department's compliance with statutory requirements.

Audit initiatives during this year resulted in tremendous savings from its findings and recommendations. The OIG issued 536 audits of program activities, grants, and contracts. Audit exceptions totaled \$503.9 million, and of the reports resolved, there were \$359.4 million in disallowed costs.

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Information Activities

Alerting the American public to the need for better training of workers, in the schools and later in the workplace, was a major activity for the Department of Labor's information and public affairs staffs during the 1990 fiscal year.

A wide range of public affairs activities was used to inform different groups about the Secretary's initiatives which were designed to improve the quality of the American workforce.

These included:

- The Secretary's Commission on Achieving Necessary Skills (SCANS), charged with defining the basic skills workers will need to meet the requirements of the 1990s and beyond.

- LIFT (Labor Investing for Tomorrow) America awards, recognizing employers and others who have developed especially effective programs to upgrade skills and improve worker education, efficiency and well-being.

- A national conference on improving linkages between school and work for youths who do not go on to college.

- Support for targeted employment and training programs to better serve "at risk" youths, for mentoring programs, for remedial education, and for literacy training and better counseling for young people and those already in the labor force.

- A Workforce Quality Clearinghouse in the Department of Labor to showcase successful techniques for recruiting and retaining qualified workers.

Improving the enforcement of laws to protect working people was another Secretarial goal which received strong public affairs support. Major emphasis was placed on safety and health, child labor, and pension and employee benefit enforcement.

Following the lead of the Secretary's statements, Congressional testimony, and addresses before various groups, public affairs offices disseminated information about problem areas, proposed changes, and actions that had proved effective.

Concerned by a significant rise in child labor violations, the Secretary announced plans to strengthen enforcement, increase penalties, and provide more widespread information about provisions of the law to employers, educators, parents, youths and others.

A series of Operation Child Watch enforcement actions was closely followed by the media. These helped to achieve the Secretary's goals by focussing public attention on child labor and penalizing flagrant violators.

During Congressional deliberations on raising the Federal minimum wage, public affairs offices provided important support. Information was disseminated on the Administration's position and the scope and effect of the proposed changes.

When the new minimum wage went into effect, a major media campaign alerted those effected to the changes.

Vital public information support was also provided for safety and health enforcement actions against recalcitrant violators, investigations of major workplace accidents, such as the Phillips chemical complex explosion in Pasadena, TX, and a program to reduce repetitive motion traumas, the cause of more than half of workplace injuries.

The Secretary's visits to Poland attracted major media attention, and the Department's public affairs network followed through by providing information about efforts to provide aid to the emerging free market economies of Hungary and Poland.

Also, the media were kept fully informed in various stages of the Secretary's efforts to settle the Pittston coal strike and her appointment of a commission to recommend solution of problems of the miners' health and welfare funds, an issue in the strike.

Key improvements were made during the year in methods to get the news to the various publics which the Department of Labor serves:

- A Department of Labor Radio News Service was launched to provide actualities by Department newsmakers and was the subject of advertisements in Broadcasting magazine and The Communicator, to alert stations about availability.

■ Labor News, the electronic bulletin board which provides news releases and other Department information to media and other users, was upgraded during the year, and usage continued to increase.

■ On-camera coaching of officials in the Department's television studio, so they can more effectively convey information on radio and TV, was broadened during the year. This resulted in clearer understanding by the public of what the Department was doing.

Extensive use was made of other communications techniques, including news releases, speeches, videotapes, telephone and facsimile contacts. Initiatives by public affairs specialists in Washington, DC, received strong backing from 10 regional offices of information and public affairs throughout the nation.

Internally, coordination of public affairs activities within the Department was improved by the institution of weekly meetings between agency participants. Strong efforts were continued to improve the quality of materials provided the media and the public.

Among the many other informational actions taken during the year were:

■ Exhibits and regional activities during Public Service Recognition Week,

■ A new booklet listing the Department's publications,

■ Radio and TV public service announcements by the Secretary and others urging summer jobs for youth,

■ Wide dissemination of information about the Women's Bureau's Work and Family Clearinghouse,

■ Coordination of messages from the Secretary to major union conventions and other gatherings.

■ Video productions to support Department training programs, including that designed to achieve a drug-free workplace.

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DOL Academy

The DOL Academy continued to progress during FY 1990. All major programs were underway, and several initiatives were undertaken to focus employees' attention on the importance of high quality, cost effective, and relevant training to prepare for the challenges of this decade and beyond the year 2000.

Supervisory Development Programs

During FY 1990, a revised supervisor's orientation program was implemented. Key components of the program are an orientation checklist, the Supervisor's Reference Guide, and five required courses for supervisors: Skills Training for DOL Supervisors; Labor-Management and Employee Relations; Equal Employment Opportunity Workshop; Human Side of Management; and Comprehensive Safety and Health Course.

The DOL Academy successfully conducted 41 deliveries of the Skills, Human Side, and EEO courses. Almost half the courses were co-trained by supervisors, who first received an intensive Train-the-Trainer session. The use of manager co-trainers was a new initiative for the DOL Academy. Fifteen managers from five agencies were selected to co-deliver Skills Training for DOL Supervisors and Human Side of Management with DOL Academy trainers. The manager co-trainers facilitated group discussions and shared their own experiences with new supervisors. The Labor-Management and Safety courses were delivered by Departmental staff who are experts in their respective fields.

The DOL Academy worked with the Office of Safety and Health to consolidate existing health training into a Comprehensive Safety and Health course. The course covers basic safety and health issues, Employee Assistance Programs (EAP), hazardous communication, and the drug-free workplace. Twenty-two Safety and Health staff participated in a three day train-the-trainer session for the new course.

Professional Development Seminar Series

During FY 1990, the DOL Academy offered 58 Professional Development Seminar Series (PDSS) courses. National office attendance was 246, and regional attendance was 599.

New Seminars

Three new PDSS Seminars were developed and piloted during FY 1990: Planning and Managing Your Projects; Strategies for Practical Negotiations; and Effective Interviewing Techniques.

Experts from most Department of Labor agencies worked closely with DOL Academy staff to ensure that new courses were relevant to Labor Department programs.

Office Skills Institute

During FY 1990, the Office Skills Institute offered 78 courses and special training events--49 courses in the national office and 29 in regional offices.

Introduction to DOL Office Procedures. This new course was implemented in the national office and in six regional offices.

The course is a required course for all new clerical employees and is part of the course offerings in the Entry Level Program. This course is also accredited through the American Council on Education (ACE). After successful completion of the Introduction to DOL Office Procedures Course, employees may be awarded college credit for two semester hours.

Training of Trainers. The Office Skills Institute developed and presented a "Training of Trainers" program. The program was designed to provide participants with basic training skills to serve as co-trainers both in the regions and the national office. Thirty-seven senior level secretaries and training officers were trained during FY 1990 and presented portions of the "Introduction to DOL Office Procedures" course.

Secretarial/Office Support Skills (SOS) Seminar. The DOL Academy sponsored a monthly series of training seminars for secretarial, clerical, and support employees in the national office. This series, formerly named the "Monday Monthly Coffee Hour," was renamed the "Secretarial/Office Support Skills

(SOS) Seminar" to more accurately reflect the developmental focus of this training activity. The objectives of the SOS Seminar series are:

- To provide training in subjects that will increase the knowledge and skills of DOL employees in support professions;
- To stimulate enhanced professionalism in secretarial and clerical occupations; and
- To provide an arena for cross-fertilization of ideas and information among support staff from all DOL Agencies.

SOS Seminars are held in the DOL Academy Training Center from 10:00 to 11:00 a.m. on the last Monday of each month.

The SOS Seminars provide a relevant, cost-effective training opportunity for DOL employees in support positions.

During FY 1990, 11 SOS Seminars were provided. Some of the topics covered included "Managing Multiple Priorities," "Getting the Most Out of Your Training," "Using Praise and Feedback," and "Improving Your Communications Skills."

The **Individualized Instruction Lab** provides instruction to employees in reading, mathematics, and English. The Lab is operated four hours a day, four days a week. During FY 1990, the Lab provided nearly 200 hours of instruction to Departmental employees.

Professional Secretaries Week. The DOL Academy sponsored its second annual Professional Secretaries Week program in the national office. The FY 1990 program was titled "Polishing Your Professional Image." A panel of speakers discussed attitudes, beliefs, and behaviors that result in a professional image.

For the first time in FY 1990 the Office Skills Institute presented the Professional Secretaries Week program at the GAO Building and Ballston Towers in addition to the Frances Perkins Building. The program received many positive comments from both employees and supervisors.

Career Counseling. The Office Skills Institute implemented its career counseling program in FY 1990. The program

provides career counseling in the national office three days a week, by appointment. Regional employees may receive career counseling by telephone or from the Regional Training Officer.

Career Counseling contacts for FY 1990 were as follows: national office employees, 130; regional office employees, 25; and contacts with training officers, 5 for a total of 160 contacts.

Summer Youth Employment Program. The Office Skills Institute staff continued their service to the Summer Youth Employment Program by providing specifically designed courses for youth. In addition to those previously offered, "Let's Talk Business" was designed and presented during FY 1990.

Consultancy Program

During FY 1990, consultative assistance was provided to 18 DOL agencies and offices. The most frequently used services were activities to improve team/group effectiveness. They included: developing organizational vision and goals; dealing with differences using the Myers Briggs Type Indicator (MBTI); training in understanding group dynamics; and training in group problem-solving techniques.

Executive Development Programs

The new "Executive Development Training Opportunities Catalog" was issued to all Departmental agency heads and members of the Senior Executive Service in FY 1990. The catalog serves as a ready reference for executives, managers, and training officers throughout the Department of Labor in planning their own development and guiding that of others. This catalog contains information on external short-term and long-term training programs sponsored by universities and government or public affairs institutions. Program descriptions include: location and geographic accessibility; length of program; dates program is offered; eligibility; cost of program; and the "Executive Competency Areas" identified by OPM and addressed by the program.

SES Forum Series

The Senior Executive Service (SES) Forum topics cover a wide variety of major concerns and skill needs of executives. The objectives of the SES Forums are: improve managerial and communication skills; strengthen relationships among senior executives across agencies; assist with career and personal development; and identify resources for successful management strategies.

In FY 1990, 10 regular SES Forums were held from September 1989 through June 1990. Subjects included "Ethics and Integrity in Government," presented by Elliot Richardson; "Total Quality Management," presented by Lawrence G. Gibbs and Rear Admiral John Kirkpatrick; and "The Changing Definition of National Security and its Impact on Domestic Priorities," presented by Dr. Lawrence Korb of the Brookings Institution.

A special joint SES and Management Forum was held September 25, 1990, in conjunction with the Department of Labor's first Training Exposition. The forum, "Implementing a TQM Effort," was conducted by William M. Ewald, Ph.D.

Special Development Programs

Special Development Programs in the DOL Academy include the following:

New Employee Orientation. During FY 1990, the Departmental-level orientation program for new employees was implemented. Four sessions were conducted in the national office, with a total attendance of 170 participants.

Orientation packets were also prepared and made available to the regional training officers.

Computer Security Awareness. During FY 1990, the Directorate of Information Resources Management, in conjunction with the DOL Academy, conducted eight Computer Security Awareness briefings for employees in the national office. Nearly 2,100 employees attended these briefings, representing all Departmental agencies.

Pre-Retirement Planning. During FY 1990, the DOL Academy coordinated five Pre-Retirement Planning Seminars at the national office. A total of 159 employees attended these seminars.

Policy Development and Issuances

In FY 1990, the DOL Academy issued a new, easy-to-use Training Policy Handbook which updates and communicates policy guidance and information for all DOL internal training. The Training Policy Handbook was distributed to 3,500 managers and supervisors.

The DOL Academy developed a policy requiring all new DOL clerical employees to complete the "Introduction to DOL Office Procedures" course. The policy was endorsed by the DOL Academy Board of Governors.

College Credit

The American Council on Education (ACE), through its program on Noncollegiate Sponsored Instruction, provides organizations and institutions such as the DOL Academy with a basis for recognizing suitable course work taken outside colleges and universities.

During FY 1990, the ACE evaluated 12 DOL Academy courses. ACE certification was obtained on four courses, and conditional approval was given to seven other courses. This brings the total number of DOL Academy courses certified by ACE to 25.

Those courses with "conditional approval" will be revised and resubmitted for final approval in FY 1991.

Additionally, the DOL Academy obtained approval of Continuing Education Units (CEUs) for 15 DOL Academy courses.

Training Evaluation and Assessment

In FY 1990, the DOL Academy initiated a major department-wide Supervisory Training Needs Assessment.

Action on the needs assessment completed during FY 1990 include: design and testing of a questionnaire; conducting

workshops to identify critical incidents; and interviews with equal employment opportunity (EEO), labor/employee relations, and employee relations staff. The DOL Academy plans to survey 3,000 managers and supervisors in March 1991, to be followed by an in-depth analysis of the results.

The Secretary of Labor established a goal in fiscal year 1990 to "improve the quality of written material produced for both internal and external Labor Department use."

The DOL Academy developed a "Writing Survey" to assess writing problems in the Department. The survey was conducted in all Departmental agencies and regions. A report of findings is currently being prepared and will be issued to the Executive Staff and the training community.

One outcome of the writing survey will be to design and develop training instruments/packages, including a handy reference desk aid on writing.

The DOL Academy redesigned its Training Planning Process (TPP) in FY 1990. The TPP is a system for assisting Departmental agencies and regions in conducting surveys to identify the training needs for the upcoming year.

The TPP allows the DOL Academy to determine course scheduling for the next fiscal year. It also provides the DOL Academy with the information necessary to publish the DOL Academy Course Catalog.

Marketing and Communications

During FY 1990, one of the DOL Academy's major objectives was to raise the level of awareness of DOL Academy programs to ensure that all Labor Department employees are able to benefit from the available services and training.

During FY 1990, the DOL Academy developed three new fact sheets on: Resource Exchange; Professional Development Seminar Series; and Supervisory Development Programs.

Additionally, the DOL Academy revised the existing fact sheets to provide the latest information on the following programs: Office Skills Institute; Computer-Assisted Learning Center; and Consultancy Program.

A DOL Academy video was developed which supports the continuing mission of the DOL Academy and its various programs as they relate to the Secretary's goals and training initiatives.

The DOL Academy received two distinguished service awards for its outstanding contributions to training.

The American Society for Training and Development (ASTD) awarded their 1989 Human Resource Development Organization Award to the DOL Academy. This award was presented in recognition of the DOL Academy's outstanding support to the development of human resources within the Department of Labor.

The Training Officers Conference (TOC), a Washington, DC, organization, recognized the DOL Academy with its 1989 Distinguished Service Award in the category of "Management of the Training Program."

The DOL Academy sponsored the Department of Labor's first Training Exposition (Expo). The theme of the Expo was "Discover Your Future." The purpose of the Expo was to focus the attention of Labor Department employees and the Federal training community on the importance of high quality, cost effective, and relevant training to prepare the workforce for the challenges of this decade and beyond the year 2000.

The Expo kicked off with an opening ceremony featuring a keynote address by Constance Newman, Director, Office of Personnel Management, who vowed to put training at the top of her agenda. The nearly 300 employees who attended the opening ceremony were very receptive to Director Newman's message and left the ceremony with an interest in training that seemed to carry throughout the week.

The Expo consisted of a variety of activities: exhibits, a forum for Labor Department managers and executives on Total Quality Management, mini-training courses, an orientation program for new employees, career counseling, demonstration of computer-based training, a film festival, and an awards ceremony.

Over 900 employees participated in various Expo activities. Although the DOL Training Expo was primarily for Labor

Department employees, members of the Federal training community throughout the metropolitan area were invited to participate. Sixteen agencies accepted the invitation and attended various Expo events. There were participants from the State Department, Departments of Education and Treasury, DC Government Personnel, Department of Defense, and other agencies.

Expo week concluded with the DOL Academy recognizing employees and organizations within the Department who have made significant contributions to training or in support of training programs. Nearly 250 employees and managers attended the awards ceremony and reception.

Since Expo, several Labor Department agencies have requested presentations to managers and supervisors on the programs and services offered by the DOL Academy. Numerous telephone calls were received from employees and the Federal training community expressing their appreciation for the opportunity to "discover their future" during Expo.

Resource Exchange

During FY 1990, Resource Exchange loans increased by 62 percent over FY 1989. The top ten resources borrowed from the Resource Exchange during FY 1990 were: An Original 171; Professor DOS; Writing For Work; DOS for Hard and Floppy Disk Users; Introduction to WordPerfect; Introduction to Lotus; Time of Your Life; Advanced WordPerfect; WordPerfect 5; and Shades of Gray: Sexual Harassment

The DOL Academy publishes the "Resource Exchange Guide" to communicate the educational programs available in the Resource Exchange. During FY 1990, this guide was revised to include over 80 new programs and was distributed to all employees.

Computer-Assisted Learning Center

The Computer-Assisted Learning Center (CALC) is a state-of-the-art facility for self-instructional training. It is designed to supplement classroom training and, in some cases, provide

alternatives to classroom training. Eight new course offerings were added to the CALC during FY 1990.

The DOL Academy provided assistance in the establishment of new mini-CALC facilities in the Atlanta, Boston, Kansas City and Denver regions.

The mini-CALC facilities are modeled after the DOL Academy CALC. Mini-CALCs feature computer-based training using personal computers and audiovisual tapes. Subjects range from typing for beginners to editing and writing, to producing an SF-171. Additionally, the mini-CALC offers micro computer skills and applications, including Lotus 1-2-3 and WordPerfect.

Microcomputer Training

In April 1990, the DOL Academy was delegated the authority and responsibility for the delivery of microcomputer training. This training is provided at minimal cost to the agencies. Since April 1990, the DOL Academy has offered 133 microcomputer classes and has trained 1,328 employees.

Appendix Tables

Appropriations and Other Obligational Authority

**Number of Employees on Labor Department Rolls
as of October 1, 1990**

**Selected Program Characteristics
JTPA Titles II-A and III, PY 1989**

**Selected Services Provided by the U.S. Employment Service,
Program Year 1989
(July 1, 1989 - June 30, 1990)**

**Benefit Data Under State Unemployment Insurance Programs
U.S. and State Totals for 1989**

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Appropriations and Other Obligational Authority

| | FISCAL YEAR 1990 AMOUNTS |
|-----------------------------------------------------------------------------------------------|-----------------------------------|
| Federal Funds | |
| Employment and Training Administration, Program | |
| Administration | 64,693,000 |
| Training and Employment Services | 3,928,954,000 |
| Community Services Employment for Older Americans | 367,013,000 |
| Federal Unemployment Benefits and Allowances | 280,024,000 |
| Grants to States for Unemployment Insurance and Employment Services | 22,000,000 |
| Advances to the Unemployment Trust Fund and Other Funds | 33,000,000 |
| Total, Employment and Training Administration | 4,695,684,000 |
| Labor Management Services | 75,278,000 |
| Employment Standards Administration | 216,322,000 |
| Special Benefits | 169,025,000 |
| Panama Canal Commission | 12,684,000 |
| Occupational Safety and Health Administration | 267,147,000 |
| Mine Safety and Health Administration | 168,226,000 |
| Bureau of Labor Statistics | 192,585,000 |
| Departmental Management | 117,072,000 |
| Office of the Inspector General | 41,422,000 |
| Special Foreign Currency | 0 |
| Total, Federal Funds | 5,955,445,000 |
| Trust Funds: | |
| Unemployment Trust Fund (ETA) | 20,241,488,000 |
| Black Lung Disability Trust Fund (ESA) | 642,203,000 |
| Special Workers' Compensation (ESA) | 105,721,000 |
| Gifts and Bequests (ETA) | 28,000 |
| Total, Trust Funds | 20,989,440,000 |
| Proprietary Receipts | (19,150,000) |
| Interfund Transactions | (317,374,000) |
| Total, Department of Labor Budget | 26,608,361,000 |
| Other Funding | |
| Funds Appropriated to Other Agencies for Programs Administered by the Department of Labor: | |
| Department of Health and Human Services (Work Incentive Program) | 10,806,000 |
| Other Federal Agencies (Federal Employees Compensation Act) | 1,541,942,000 |
| Total, Other Funds | 1,552,748,000 |
| Grand Total, All Funds | 28,161,109,000 |

Number of Employees on Labor Department Rolls as of October 1, 1990

| | Full-Time | Permanent | (FTP) | Other | | |
|--------------------|-----------|-----------|--------|-------|------|-------|
| | Total | D.C. | Field | Total | D.C. | Field |
| All Agencies | 17,364 | 6,351 | 11,013 | 832 | 254 | 578 |
| ETA | 1,661 | 740 | 921 | 51 | 19 | 32 |
| LMS | 985 | 377 | 608 | 38 | 22 | 16 |
| ESA | 3,838 | 691 | 3,147 | 91 | 17 | 74 |
| OSHA | 2,497 | 447 | 2,050 | 82 | 24 | 58 |
| MSHA | 2,556 | 259 | 2,297 | 57 | 7 | 50 |
| BLS | 2,140 | 1,561 | 579 | 360 | 51 | 309 |
| SOL | 663 | 380 | 283 | 32 | 20 | 12 |
| ILAB | 86 | 85 | 1 | 8 | 8 | 0 |
| OSEC | 238 | 190 | 48 | 8 | 7 | 1 |
| OASAM | 913 | 539 | 374 | 44 | 29 | 15 |
| OIG | 513 | 172 | 341 | 15 | 5 | 10 |
| VES | 260 | 36 | 224 | 2 | 1 | 1 |
| OTHER | 509 | 369 | 140 | 14 | 14 | 0 |
| PBGC | 505 | 505 | 0 | 30 | 30 | 0 |

Selected Program Characteristics JTPA Titles II-A and III for PY 1989

| | Title II-A | Title III |
|-------------------------------------------------|-----------------|---------------|
| Total Expenditures | \$1,811,451,680 | \$306,558,797 |
| Total Served | 932,438 | 239,542 |
| Total Terminees | 659,055 | 142,008 |
| Adult | 55% | N/A |
| Youth | 45% | N/A |
| Male | 46% | 58% |
| Female | 54% | 42% |
| White | 49% | 69% |
| Black | 32% | 17% |
| Hispanic | 15% | 12% |
| Alaskan/American Indian .. | 2% | 1% |
| Asian/Pacific Islander | 2% | 2% |
| School Dropout | 27% | 17% |
| Unemployed 15 or more of prior 26 weeks | 38% | 39% |
| Entered Employment | 59% | 66% |
| Average Hourly Wage | \$5.31 | \$7.55 |
| Youth Positive Termination .. Rate | 77% | N/A |

Note: Interim data. Percentages may not equal 100 due to rounding.

Selected Services Provided by the U.S. Employment Service Program Year 1989 (July 1, 1989 - June 30, 1990)

| | Total Applicants | Referred to Jobs | Job Openings Received | Ind Pld/ Obt Empl |
|----------------------------|---------------------|---------------------|--------------------------|----------------------|
| U.S. Total | 18,414,985 | 7,679,948 | 6,997,847 | 3,727,788 |
| Region I | 825,578 | 327,919 | 215,033 | 128,877 |
| Connecticut | 272,691 | 93,138 | 49,392 | 35,855 |
| Maine | 133,612 | 53,606 | 27,264 | 16,006 |
| Massachusetts | 235,750 | 109,513 | 89,888 | 49,131 |
| New Hampshire | 60,944 | 27,162 | 16,079 | 12,248 |
| Rhode Island | 54,021 | 16,898 | 13,588 | 6,536 |
| Vermont | 68,560 | 27,602 | 18,822 | 9,101 |
| Region II | 1,370,878 | 327,232 | 508,431 | 199,467 |
| New Jersey | 346,141 | 72,213 | 75,823 | 42,606 |
| New York | 790,939 | 213,129 | 370,594 | 129,391 |
| Puerto Rico | 219,024 | 37,542 | 57,897 | 25,604 |
| Virgin Islands | 14,774 | 4,348 | 4,117 | 1,866 |
| Region III | 1,537,376 | 608,243 | 472,657 | 272,525 |
| Delaware | 27,753 | 8,309 | 9,367 | 3,789 |
| District of Columbia | 91,475 | 35,387 | 57,161 | 23,888 |
| Maryland | 189,079 | 72,835 | 74,458 | 42,183 |
| Pennsylvania | 641,026 | 260,655 | 176,151 | 111,125 |
| Virginia | 424,455 | 166,875 | 116,555 | 65,329 |
| West Virginia | 163,588 | 64,182 | 38,965 | 26,211 |
| Region IV | 4,031,157 | 1,978,650 | 1,602,587 | 870,921 |
| Alabama | 451,991 | 211,127 | 157,572 | 124,189 |
| Florida | 913,607 | 464,738 | 465,273 | 147,866 |
| Georgia | 499,274 | 224,640 | 142,643 | 105,217 |
| Kentucky | 379,737 | 154,872 | 113,699 | 89,961 |
| Mississippi | 340,127 | 165,410 | 119,411 | 81,765 |
| North Carolina | 689,364 | 384,916 | 301,123 | 174,505 |
| South Carolina | 338,695 | 188,483 | 176,982 | 79,257 |
| Tennessee | 418,362 | 184,464 | 125,884 | 68,161 |
| Region V | 3,266,336 | 1,024,717 | 812,778 | 547,130 |
| Illinois | 787,959 | 233,390 | 198,670 | 159,624 |
| Indiana | 462,242 | 184,061 | 95,158 | 58,615 |
| Michigan | 682,853 | 132,633 | 160,867 | 89,771 |
| Minnesota | 316,731 | 160,455 | 145,634 | 76,698 |
| Ohio | 663,424 | 165,499 | 124,683 | 89,845 |
| Wisconsin | 353,127 | 148,679 | 87,746 | 72,577 |

**Selected Services Provided by the
U.S. Employment Service
Program Year 1989
(July 1, 1989 - June 30, 1990) — Continued**

| | Total Applicants | Referred to Jobs | Job Openings Received | Ind Pled/ Obt Empl |
|--------------------|---------------------|---------------------|--------------------------|-----------------------|
| Region VI | 2,837,098 | 1,155,541 | 1,029,697 | 657,201 |
| Arkansas | 307,472 | 149,080 | 109,720 | 75,725 |
| Louisiana | 374,306 | 149,725 | 105,329 | 68,066 |
| New Mexico | 200,722 | 46,502 | 45,861 | 30,635 |
| Oklahoma | 352,679 | 109,090 | 133,352 | 74,511 |
| Texas | 1,601,919 | 701,144 | 635,435 | 408,264 |
| Region VII | 1,188,067 | 569,902 | 454,846 | 261,915 |
| Iowa | 306,068 | 171,569 | 155,372 | 99,265 |
| Kansas | 213,273 | 91,704 | 79,375 | 41,532 |
| Missouri | 562,098 | 244,358 | 162,969 | 89,142 |
| Nebraska | 106,628 | 62,271 | 57,130 | 31,976 |
| Region VIII | 883,612 | 495,728 | 495,713 | 238,769 |
| Colorado | 292,799 | 136,174 | 122,770 | 60,439 |
| Montana | 110,936 | 58,919 | 61,116 | 26,688 |
| North Dakota | 99,570 | 65,845 | 52,556 | 28,135 |
| South Dakota | 96,467 | 66,682 | 74,043 | 32,687 |
| Utah | 211,159 | 126,019 | 143,483 | 70,319 |
| Wyoming | 72,681 | 42,089 | 41,745 | 20,501 |
| Region IX | 1,598,763 | 744,919 | 974,362 | 331,116 |
| Arizona | 330,435 | 137,501 | 89,705 | 45,060 |
| California | 1,093,744 | 520,004 | 776,239 | 256,909 |
| Guam | 5,306 | 3,150 | 13,389 | 1,794 |
| Hawaii | 70,153 | 32,159 | 34,414 | 9,561 |
| Nevada | 99,125 | 52,105 | 60,615 | 17,792 |
| Region X | 876,120 | 447,097 | 431,743 | 219,867 |
| Alaska | 89,988 | 46,775 | 63,592 | 23,771 |
| Idaho | 136,648 | 85,045 | 92,569 | 41,409 |
| Oregon | 285,872 | 147,905 | 109,740 | 59,747 |
| Washington | 363,612 | 167,372 | 165,842 | 94,940 |

Benefit Data Under State Unemployment Insurance Programs U.S. and State Totals for 1989

| Claims data | | | | | | | | | | | | |
|-------------------------|-------------------------------|----------------------------------------|-------------------------------|---------------------------|-----------------------------|--------|-----------------------|---------------------------|-------------------------|------------------------|------------------------------------|-------------------------------------------|
| State | Total number of beneficiaries | Weeks compensated for all unemployment | Claimants exhausting benefits | | Average duration (in weeks) | | | Weekly insured unemployed | | Average weekly benefit | | Average weekly wage in covered employment |
| | | | Number | Percent of first payments | Potential | Actual | Actual for exhaustees | Average number | Percent of cov. employ. | Amount | Ratio to average weekly total wage | |
| United States | 7,368,858 | 98,255,233 | 1,940,325 | 28.0 | 24.3 | 13.3 | 22.9 | 2,157,637 | 2.1 | 151.63 | 0.354 | 428.78 |
| Alabama | 151,376 | 1,468,132 | 27,858 | 18.9 | 23.8 | 9.7 | 21.7 | 32,378 | 2.2 | 108.78 | 0.295 | 368.79 |
| Alaska | 33,093 | 485,552 | 13,972 | 41.6 | 20.8 | 14.7 | 20.3 | 9,058 | 4.4 | 157.17 | 0.272 | 568.99 |
| Arizona | 73,524 | 1,003,727 | 19,738 | 31.0 | 23.0 | 13.7 | 21.1 | 23,779 | 1.7 | 116.97 | 0.295 | 396.89 |
| Arkansas | 83,388 | 1,020,028 | 20,339 | 24.7 | 24.0 | 12.2 | 23.0 | 24,679 | 2.9 | 131.14 | 0.397 | 330.51 |
| California | 1,023,682 | 14,327,156 | 287,428 | 28.9 | 23.1 | 14.0 | 23.6 | 321,074 | 2.5 | 120.51 | 0.252 | 477.53 |
| Colorado | 74,111 | 936,974 | 25,133 | 32.2 | 22.1 | 12.6 | 17.3 | 22,942 | 1.6 | 160.94 | 0.386 | 417.18 |
| Connecticut | 119,473 | 1,468,230 | 22,904 | 21.2 | 26.0 | 12.3 | 26.0 | 28,598 | 1.8 | 191.12 | 0.362 | 528.31 |
| Delaware | 22,049 | 217,255 | 2,213 | 11.0 | 25.8 | 9.9 | 25.9 | 4,047 | 1.2 | 163.31 | 0.366 | 445.91 |
| Dist. of Columbia | 19,462 | 370,637 | 10,208 | 53.1 | 24.8 | 19.0 | 24.7 | 7,429 | 1.7 | 200.32 | 0.345 | 580.50 |
| Florida | 186,715 | 2,371,382 | 63,265 | 36.3 | 21.1 | 12.7 | 19.7 | 58,051 | 1.1 | 145.39 | 0.380 | 382.26 |
| Georgia | 209,516 | 1,935,512 | 50,190 | 25.5 | 21.0 | 9.2 | 21.1 | 39,441 | 1.4 | 136.24 | 0.339 | 401.46 |
| Hawaii | 19,098 | 228,099 | 3,395 | 16.4 | 26.0 | 11.9 | 26.0 | 5,058 | 1.1 | 176.59 | 0.435 | 406.21 |
| Idaho | 36,539 | 427,682 | 10,069 | 26.7 | 19.6 | 11.7 | 16.6 | 10,791 | 3.1 | 139.30 | 0.405 | 344.11 |
| Illinois | 302,991 | 4,825,471 | 95,294 | 33.1 | 26.0 | 15.9 | 26.0 | 104,566 | 2.1 | 159.73 | 0.344 | 464.40 |
| Indiana | 115,811 | 1,178,936 | 22,511 | 21.9 | 22.4 | 10.2 | 19.9 | 29,300 | 1.2 | 104.88 | 0.264 | 397.87 |
| Iowa | 73,393 | 874,264 | 15,970 | 23.1 | 22.5 | 11.9 | 21.4 | 17,836 | 1.6 | 155.75 | 0.443 | 351.36 |
| Kansas | 69,306 | 934,679 | 19,550 | 28.5 | 22.8 | 13.5 | 21.3 | 19,809 | 2.0 | 167.22 | 0.451 | 370.74 |
| Kentucky | 113,154 | 1,323,498 | 19,744 | 19.6 | 26.0 | 11.7 | 26.0 | 27,343 | 2.1 | 125.70 | 0.347 | 362.03 |
| Louisiana | 99,250 | 1,580,041 | 32,900 | 30.8 | 26.0 | 15.9 | 25.7 | 36,309 | 2.5 | 105.42 | 0.280 | 376.02 |
| Maine | 44,387 | 483,118 | 8,677 | 22.4 | 21.7 | 10.9 | 20.2 | 11,465 | 2.2 | 149.12 | 0.411 | 362.99 |
| Maryland | 88,861 | 1,217,476 | 19,697 | 23.1 | 26.0 | 13.7 | 26.0 | 28,938 | 1.5 | 167.15 | 0.379 | 441.03 |
| Massachusetts | 260,788 | 3,927,502 | 69,468 | 33.0 | 27.5 | 15.1 | 26.6 | 84,378 | 2.8 | 211.93 | 0.438 | 483.96 |
| Michigan | 393,128 | 5,047,895 | 101,631 | 32.0 | 23.8 | 12.8 | 21.0 | 109,434 | 2.9 | 189.86 | 0.398 | 476.98 |
| Minnesota | 122,906 | 1,785,259 | 34,140 | 28.6 | 23.1 | 14.5 | 20.5 | 36,956 | 1.9 | 185.32 | 0.436 | 424.68 |
| Mississippi | 71,642 | 876,887 | 18,034 | 25.8 | 23.7 | 12.2 | 22.2 | 21,874 | 2.5 | 109.27 | 0.339 | 322.15 |
| Missouri | 160,747 | 2,010,294 | 42,282 | 27.5 | 22.4 | 12.5 | 20.7 | 46,094 | 2.1 | 127.09 | 0.320 | 397.74 |
| Montana | 21,827 | 295,330 | 7,296 | 33.2 | 17.8 | 13.5 | 17.7 | 7,104 | 2.7 | 131.54 | 0.407 | 323.18 |

Benefit Data Under State Unemployment Insurance Programs U.S. and State Totals for 1989 — Continued

| State | Claims data | | | | | | | | | | | |
|---------------------|-------------------------------|----------------------------------------|-------------------------------|---------------------------|-----------------------------|--------|---------------------------|----------------|-------------------------|--------|-------------------------------------------|------------------------------------|
| | Total number of beneficiaries | Weeks compensated for all unemployment | Claimants exhausting benefits | | Average duration (in weeks) | | Weekly insured unemployed | | Average weekly benefit | | Average weekly wage in covered employment | |
| | | | Number | Percent of first payments | Potential | Actual | Actual for exhaustees | Average number | Percent of cov. employ. | Amount | | Ratio to average weekly total wage |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| Nebraska | 27,469 | 312,482 | 6,988 | 25.3 | 22.8 | 11.4 | 17.0 | 7,498 | 1.1 | 119.33 | 0.355 | 336.36 |
| Nevada | 35,647 | 435,055 | 7,741 | 21.9 | 23.2 | 12.2 | 23.0 | 9,237 | 1.6 | 153.24 | 0.376 | 407.46 |
| New Hampshire .. | 32,041 | 213,033 | 923 | 3.6 | 26.0 | 6.6 | 26.0 | 5,443 | 1.1 | 127.22 | 0.309 | 412.10 |
| New Jersey | 267,941 | 4,004,928 | 88,531 | 36.0 | 24.0 | 14.9 | 22.8 | 81,433 | 2.3 | 192.45 | 0.375 | 513.50 |
| New Mexico | 28,267 | 461,817 | 9,850 | 32.6 | 25.7 | 16.3 | 25.2 | 10,911 | 2.1 | 125.34 | 0.358 | 349.66 |
| New York | 544,073 | 8,917,318 | 160,305 | 34.2 | 26.0 | 16.4 | 26.0 | 180,133 | 2.3 | 165.68 | 0.316 | 524.66 |
| North Carolina ... | 210,837 | 1,664,150 | 27,817 | 13.5 | 23.2 | 7.9 | 20.7 | 41,155 | 1.4 | 146.20 | 0.396 | 368.97 |
| North Dakota | 15,217 | 202,086 | 6,447 | 38.8 | 19.4 | 13.3 | 16.2 | 4,499 | 2.0 | 134.42 | 0.419 | 320.59 |
| Ohio | 305,056 | 3,776,015 | 64,506 | 22.0 | 25.6 | 12.4 | 25.2 | 86,014 | 1.9 | 129.05 | 0.307 | 420.47 |
| Oklahoma | 49,749 | 671,817 | 16,470 | 33.1 | 21.6 | 13.5 | 20.8 | 16,994 | 1.6 | 145.01 | 0.393 | 368.66 |
| Oregon | 105,684 | 1,401,684 | 22,757 | 21.9 | 25.7 | 13.3 | 24.8 | 31,871 | 2.8 | 154.57 | 0.400 | 386.20 |
| Pennsylvania | 406,243 | 5,844,611 | 88,757 | 23.2 | 26.2 | 14.4 | 25.8 | 126,896 | 2.6 | 182.31 | 0.428 | 426.01 |
| Puerto Rico | 107,584 | 1,481,170 | 47,055 | 50.6 | 20.0 | 13.8 | 20.0 | 38,846 | 4.7 | 75.90 | 0.322 | 235.61 |
| Rhode Island | 46,217 | 615,379 | 12,058 | 28.9 | 23.6 | 13.3 | 20.5 | 14,082 | 3.1 | 181.81 | 0.451 | 402.86 |
| South Carolina ... | 96,588 | 898,394 | 16,227 | 18.8 | 23.6 | 9.3 | 24.8 | 22,930 | 1.6 | 120.67 | 0.339 | 356.47 |
| South Dakota | 8,284 | 92,032 | 925 | 10.7 | 25.0 | 11.1 | 24.4 | 2,638 | 1.1 | 119.46 | 0.403 | 296.38 |
| Tennessee | 164,170 | 1,840,735 | 39,543 | 26.0 | 23.0 | 11.2 | 21.4 | 41,454 | 2.0 | 109.18 | 0.292 | 373.51 |
| Texas | 340,411 | 4,873,637 | 133,002 | 38.8 | 20.9 | 14.3 | 19.9 | 107,054 | 1.6 | 160.31 | 0.387 | 413.84 |
| Utah | 31,371 | 375,770 | 8,890 | 27.1 | 20.6 | 12.0 | 19.0 | 8,138 | 1.3 | 160.28 | 0.440 | 363.97 |
| Vermont | 19,300 | 219,625 | 2,102 | 12.9 | 26.0 | 11.4 | 25.8 | 5,017 | 2.0 | 140.95 | 0.379 | 371.72 |
| Virgin Islands | 1,267 | 16,571 | 404 | 25.4 | 24.7 | 13.1 | 23.3 | 703 | 1.7 | 124.24 | 0.303 | 410.12 |
| Virginia | 130,971 | 1,690,267 | 18,567 | 14.8 | 21.5 | 12.9 | 19.5 | 21,684 | 0.9 | 141.12 | 0.394 | 358.45 |
| Washington | 168,682 | 2,573,463 | 44,690 | 25.7 | 26.2 | 15.3 | 24.1 | 58,515 | 3.0 | 155.89 | 0.379 | 411.10 |
| West Virginia | 52,999 | 702,084 | 10,961 | 22.2 | 26.0 | 3.2 | 25.7 | 16,108 | 2.8 | 141.50 | 0.376 | 376.48 |
| Wisconsin | 172,008 | 2,192,385 | 37,757 | 22.3 | 24.6 | 12.7 | 21.8 | 46,111 | 2.2 | 156.39 | 0.404 | 386.85 |
| Wyoming | 10,565 | 157,709 | 3,146 | 27.8 | 22.2 | 14.9 | 19.8 | 3,541 | 2.0 | 160.23 | 0.440 | 364.16 |

** Prepared by DOL/ETA/OES/UIS, Division of Actuarial Services. **

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